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House of Representatives

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2003

(Continued)

AMENDMENT OFFERED BY MR. SPRATT

Mr. SPRATT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SPRATT:

Page 34, line 2, after the dollar amount, insert ''(reduced by $30,000,000)(increased by $30,000,000)''.

Mr. SPRATT. Mr. Chairman, this amendment would take $30 million out of the space-based kinetic intercept program, leaving $14 or $15 million for concept definition, which is the status of it anyway, and instead, shift that $30 million to another program, a vitally important program as part of missile defense which has been debited by this bill, the airborne laser bill.

So it would not decrease by any means the total amount appropriated by this bill for ballistic missile defense. It would simply reallocate within those accounts $30 million, shifting it, as I said, from the space-based boost phase interceptor over to the airborne laser system to make up for 50 percent of a cut which the committee has made in that particular program.

Mr. Chairman, some 15 years ago when the SDI program, Strategic Defense Initiative, was first begun, it was to be a layered defense. There were to be ground-based layers and space-based layers.

One of the space-based layers was a space-based intercept system. It would have been a satellite which would have housed many different smaller satellites, each of which would have housed many different interceptors, each of which could be fired at missiles as they were launched, or even in the midcourse, as they came towards the United States.

The problem with this system, in addition to the fact of being an enormous system, was that in a fixed orbit in space a target this large with that many interceptors on it was a very valuable target and a very vulnerable target; and any country able to fire at us an ICBM that really put us at risk would also be able to build what is called a DANASAT, a direct ascent ASAT, to take out that defensive system.

So to avoid the inherent vulnerability of having predeployed satellites in space, the idea of Brilliant Pebbles was conceived. This system, the SBI system, was abandoned and Brilliant Pebbles was taken up.

The idea of Brilliant Pebbles was to make this target not so valuable and not so vulnerable by making each satellite a single interceptor. Each would have been self-sufficient and able to sense what was coming on and able to propel itself towards that oncoming missile and take it out.

Members can imagine how daunting this technology is. Because the technology was so daunting and the cost of lift and other things was so enormously expensive, the Brilliant Pebbles program was abandoned, as well.

We have spent substantial sums of money, therefore, on space-based interceptors and boost phase interceptors in space. We have abandoned both. We should learn from our mistakes. We should learn from our mistakes and concentrate on what has worked and put our assets where they are likely to pay off in the near term. That is exactly what we are trying to do today.

I am not opposed to boost-phase intercept. In fact, what I am trying to do is shift some money from a system not likely to work any time soon into a system that shows the promise of being an effective space-based or boost-phase interceptor, the ABL, the airborne laser.

Why do I do this? One reason for doing it is that if we look at what the Missile Defense Agency, the BMD agency is doing today, we will see they have a full plate, a fuller plate than they have had since SDI began. They are developing a ground-based midcourse interceptor; they are developing two or three variations on a ship-based mid course interceptor and a ship-based boost-phase interceptor; they are developing theater systems like the PAC–3, the THAAD, the MEADs. They are developing laser systems, airborne laser systems, and space-based laser systems.

They need to winnow down some of these systems and focus on what works and try to bring those things that are most feasible to fruition, as opposed to going off in pursuit of a million different ideas. So that is what we would try to do here, refine the focus of the program on a system that is likely to work, taking out of a system that has been proven not to work in at least two iterations over the last 15 years.

Let me say that this system right now, this so-called space-based boost-phase intercept system, is relatively, relative to the defense budget, a small system. It is $23 million, or $23.8 million is the funding level for this year. The President requested $54.4 million. We would leave in the budget $14 million for this program; but as I said, we would shift the program.

Now, it does not seem like it is really crowding anything out at that level of funding. What we have to do is look at what the MDA, the Missile Defense Agency, has provided us in a backup and justification charts for the cost growth they expect in this particular program, the boost-phase intercept program. They expect the cost to go up to $510 million.

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. SPRATT) has expired.

(By unanimous consent, Mr. SPRATT was allowed to proceed for 2 additional minutes.)

Mr. SPRATT. Mr. Chairman, this program will go from today's modest

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level to $510 million in just 10 years. When it gets to that level, it is going to crowd out and preclude something else.

The ABL, on the other hand, the airborne laser, needs money to buy, number one, a second airframe, a Boeing 747; and, number two, and even more critically, it needs some money to buy long lead time items that will make this airframe a suitable platform for a laser that will weigh 200,000 to 250,000 pounds and has to have absolute stability if it is going to work and be functional at all.

What we would put back in this budget, we would take the money out of one program and put it back in the ABL so we could buy those critical long lead items. If we do not buy those critical items, if we let the $30 million deletion stand in this budget, we are going to find that this program is going to be stretched out and out and out, and it is not going to be ready to be tested to determine whether or not the power system, the laser system, will have the power necessary to be an effective system by the year 2005 or 2007.

Mr. Chairman, this is a very constructive amendment, and it does not take a dime out of the overall program. It will enhance the prospects for boost-phase intercept. It will ensure that the money we are spending on ballistic missile defense is being spent more effectively and is being spent towards accomplishing the purposes that we have set out for the program.

I urge support for this amendment.

Mr. LEWIS of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I was going to rise to try and strike this item on a point of order, but the gentleman from South Carolina is such a quality gentleman, he had done the homework on this amendment in a fashion so that it is not subject to a point of order.

But in the meantime, let me say that the thrust of his amendment, really an intent, has essentially the same purpose as the amendment that I did object to, regard space-based missile defense. He does speak to the question of putting funding back into airborne laser.

I might mention to the gentleman that this bill increases funding for that program, increases it enough so that the Department will have a decision to make whether they want to put the money into a more robust program or to go to the second aircraft. So I think we have really met that challenge within the work of the bill.

On the other hand, the question relative to space-based kinetic energy I think is a matter that was fully discussed in the authorizing committee and on that bill as it moved through the House.

The CHAIRMAN. Does any other Member wish to be heard on the amendment?

Mr. DICKS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I believe the gentleman has made a very important case here. The Airborne Laser program is one I have followed closely. I think it is on the verge of being tested, and I just want to commend the gentleman from South Carolina (Mr. SPRATT), who I think is the most knowledgeable person in the Congress on these issues, for the good work that he has done over the years in following these issues.

We do not want to do anything to slow down this first test on the airborne laser so we can find out that it will work. In fact, last year I urged the committee to put money in so we would not let the test be delayed. So I urge the committee to adopt the Spratt amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. SPRATT).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. LEWIS of California. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from South Carolina (Mr. SPRATT) will be postponed.

Mr. BLUMENAUER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, one of the areas that I am most deeply concerned about in the course of our dealing with the Department of Defense deals with the consequences of military activity over the course of the last 2 centuries. Unfortunately, we have left a legacy of unexploded ordnance, toxic waste that is involved from border to border, from coast to coast. It is in every State and virtually every congressional district.

Unexploded ordnance, UXO, as we talk about it, is left over from military training exercises at some 2,000 formerly used defense sites and closed bases in every State; and in fact, we really do not have an inventory of actually how many millions of acres; it may be 10 million, it may be 50 million.

□ 1230

These sites include bombing ranges, testing facilities that were once located in underpopulated areas. However, we find that, today, distance is no longer a protective factor; and sites are now often bordered by housing developments or schools or contained within parks and other public lands.

Recently, there was a gentleman rototilling in his yard in a subdivision in Arlington, Texas.

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

Mr. BLUMENAUER. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, we think this amendment is a very important area. We will take a look at it and see if we cannot add money to this field. There is no question in mind that the gentleman has hit an area that a lot of Members are interested in. We will take care of the problem.

Mr. BLUMENAUER. Reclaiming my time, I appreciate the gentleman's comments and interest; and I guess I do not need to get up and thump the tub any further. But I would be interested if the chairman of the committee has any observations about the work that we may be able to do to deal with the research and development and the cleanup of unexploded ordnance.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BLUMENAUER. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman bringing up this important subject. I could not respond any better than my colleagues from Pennsylvania did, and we look forward to working with the gentleman.

Mr. BLUMENAUER. Mr. Chairman, I deeply appreciate the gentleman's interest and activities; and, too, I look forward to working with the gentleman.

I would note that there appears to be a growing awareness on the part of Members across the country. I will save my stump speech, but I would just mention that there is one site we had a hearing on yesterday that is still, the campus of the American University, that 84 years after World War II we are still cleaning up chemical weapons.

I think there is lot we can do. I appreciate the assurance and look forward to working with the gentleman.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to rise to commend the chairman, the gentleman from California (Mr. LEWIS), and the ranking member, the gentleman from Pennsylvania (Mr. MURTHA), for their excellent work on this bill. I look forward to working with them on the training of our National Guard. I know that the Guard is about to deploy in Pennsylvania. General Centraccio in my home State of Rhode Island has been very active in making sure our Guard is prepared and trained.

We are relying on the Guard more than ever, and they are part of our total force, especially in this war on terrorism. I think they need to get the needed training and equipment that they need to do their job successfully.

I know this bill goes a long way to doing that. I look forward to working with the gentleman from Pennsylvania (Mr. MURTHA) to ensure that they continue to get the best training available.

I rise today to commend Chairman LEWIS and Congressman MURTHA for their work on this legislation. Their task hasn't been an enviable one, given the limited budget allocations that they were forced to work with.

In the end, they made it work. Looking at the bill that they produced, everyone can see that Chairman LEWIS and Congressman MURTHA are dedicated to our military and the security of our Nation at home and abroad. The safety and security of our Nation and the training and readiness of our military came first—just as it should.

I'd also like to associate myself with the comments of Mr. MURTHA made when the Appropriations Committee was discussing this legislation.

He expressed his belief in the importance of ensuring that our soldiers receive the best training in the world to fight in our war on terrorism. He reminded us that the National Guard and the Reserves are a vital component in winning this war. He mentioned that the Pennsylvania Guard is about to deploy to Bosnia to initiate operations. In Rhode Island, General Centraccio is leading the Rhode Island Guard on a similar course. These Guard personnel are dedicated men and women, average American citizens, who are putting their lives on the line for their country.

As Mr. MURTHA mentioned, we owe it to them to ensure that they have the absolute best training and equipment available to do their job right in areas like marksmanship which I know is important to both Mr. MURTHA and Mr. LEWIS.

I deeply appreciate the opportunity to work with the Committee on these and other issues. I look forward to continuing the good work we have begun to ensure that our men and women in uniform have access to the best training available.

AMENDMENT OFFERED BY MR. KUCINICH

Mr. KUCINICH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KUCINICH:

At the end of the bill (before the short title), insert the following new section:

SEC. . Of the total amount appropriated pursuant to this Act for any component of the Department of Defense that the Director of the Office of Management and Budget has identified (as of the date of the enactment of this Act) under subsection (c) of section 3515 of title 31, United States Code, as being required to have audited financial statements meeting the requirements of subsection (b) of that section, not more than 99 percent may be obligated until the Inspector General of the Department of Defense submits an audit of that component pursuant to section 3521(e) of title 31, United Sates Code.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I want the gentleman to know I am inclined to accept his amendment if we do not have to spend a lot of time discussing it, since we have discussed the matter already.

Mr. KUCINICH. Mr. Chairman, I want to thank the gentleman and certainly would yield to his higher wisdom.

Mr. LEWIS of California. Mr. Chairman, with that, we will accept the amendment if we can move forward.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KUCINICH).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TIERNEY

Mr. TIERNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TIERNEY:

In the item relating to ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', after the dollar amount, insert the following: ''(reduced by $121,800,000)''.

Mr. TIERNEY. Mr. Chairman, this particular matter, an amendment, goes to reducing the budget by $121.8 million that is now earmarked for the construction of five silos at Fort Greely. This does not deal with research but rather the construction.

You will remember that earlier in our remarks we talked about the fact that the Department of Operational Testing and Evaluation had come before committees in this Congress to indicate that the national missile defense system, particularly this mid-range system, is nowhere near a point where it had been tested adequately to sufficiently give anybody confidence in its reliability; and, in fact, the experts and director of that department had indicated we should not move forward with construction until we adequately test it.

The fact of matter is that is why Congress passed the act setting up the Office of Operational Testing and Evaluation, because we had in the past allowed services to go forward and build weapons systems that were not adequately tested, resulting in enormous losses of money and great losses of time in trying to build the defense of this country. So the fact of the matter here is we concentrate on the premature construction and not the research of this.

You will remember that when Mr. Coyle, who was the former director of that agency, came before Congress and testified that the testing regime was inadequate, the answer we got from the Department of Defense was to pull it in and say they will now do an entirely different system of testing. This one would lump all the research and development and construction together, and it would be more difficult to separate one out from the other. They would also do what they call the capabilities-based system, as opposed to a system where we set out goals and tried to meet those goals as we went forward and we could measure and identify the progress in developing a system and whether or not it was working.

When asked about the real capabilities of these Fort Greely interceptors, General Ronald Kadish, the head of the Missile Defense Agency, seems to be of two minds. On one hand, he calls it a limited capability, a residual protection, not perfect by any means, but then he testified before the Committee on Armed Services in February and said he had high confidence that this would be capable to be put in place by 2004.

The fact of the matter is that that is not the case, and because it is not the case we should not be spending money to construct something that has not been adequately tested.

Now the problem that we have here is that usually we would have a Test and Evaluation Master Plan, or what we call a TEMP, by which we could judge where this is going, but the administration has not given us one. We would devise specific tests and goals and time lines. That was originally due in June. It has yet to be completed. It has now been pushed off to the fall, maybe later.

Normally, as an alternative, Congress would have certain minimum requirements established by military planners in so-called operational requirements documents, but the administration has canceled those as of January.

Pentagon officials have also failed to deliver many other technical documents, including the program implementation plan. So, essentially, they are leaving us all out there without any guide or direction as to whether or not we can measure the progress on this. They are ignoring the technology. They are rushing ahead on construction without any thoughtful testing regimen and forcing us to get a situation where we will have to retroactively correct mistakes and errors, costing billions of dollars and a great deal of time.

So we had a hearing and a briefing. We called in Mr. Coyle, and we called in people of the Union of Concerned Scientists, experts on this matter, for specific questioning about whether or not these programs and aspects of it, separate components of it, were really going to be operational and capable by 2004. We learned that that will not be the case.

We first asked about the X-Band Radar System. The Pentagon thought this system is essential to any ground-based system. We were told that it will not be in place by 2004.

Then we asked about the space-based infrared satellite system, the so-called SBIRS. We were told that those would not be in place near operational and capable by 2004. In fact, we are looking a decade or more out on that.

We then talked about whether or not we would have a Cobra Dane Radar as a substitute for the X-Band Radar, even though it would not come anywhere remotely close to doing all of the things that the X-Band Radar was called upon doing; and we were told at best that would be extremely limited and would not serve the purposes of testing or having it be operational at that point in time.

We talked about whether or not flight tests would be conducted with significant information being provided by the interceptor before the launch, because essentially that is what we have been doing. We have been telling the interceptor ahead of time where the target is. You can bet no enemy is going to do that.

By 2004, Mr. Coyle and the Union of Concerned Scientists told us that we would not have had a single test conducted without advanced information on trajectory for the incoming missile given to the interceptor. Nor would we have an opportunity to have any tests done without first telling the interceptor where the launch location was. So it is noes all the way down the line to there.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. TIERNEY) has expired.

(By unanimous consent, Mr. TIERNEY was allowed to proceed for 2 additional minutes.)

Mr. TIERNEY. Mr. Chairman, we then asked whether or not the flight intercept tests by 2004 would be able to tell us whether or not countermeasures would be effectively taken into account in the test; and we were told that, no, that would not be done.

We then asked whether or not it was important to test the system for different kinds of weather, and we were told it was, but those types of tests would not be done by 2004.

We asked whether or not there would be a simple target sweep or a complex target sweep and whether or not there would be tests done on complex target sweeps, and we were told that that would not be done.

We talked about the fact that, so far, any target has had a beacon on it so that the enemy setting it up would have to have a red light telling it where it was to be hit, and they said there would be no test without the beacon being on target ahead of time.

So right on down the line we have had a system of boosters that have been plagued with problems, and we were told that any booster productivity by 2004 would be extremely unlikely. More likely that is a decade out. So we are using a booster system that will not even be the final one when this becomes operational.

Mr. Chairman, the bottom line on all of there is there is no way we should start building this, no way we should start building it until it is fully tested. We cannot under any conditions, by the former operations and technical person at the Pentagon, have this in place and operational and capable by 2004.

Why are we spending taxpayers' hard-earned money when we have so many other needs in defense? Primary among those are homeland security issues, pay for our troops, housing for our troops, right on down the line. Instead, just because someone treats this program like religion, we are out here allowing them to get away with starting to build something that we have not tested. We are throwing good money after bad.

The worst part of it is, Mr. Chairman, that now the Pentagon tells us, because they were found out about how bad their testing regime is, now they will classify everything so nobody will get the information.

You can bet every time they have a test they will tell you it is a success. What they will not tell you is that they are testing it knowing where the launch point was, knowing what the trajectory was, knowing there is a beacon on the target, knowing there are no countermeasures, knowing everyone will know the answer before it starts, and that does not serve the American taxpayer well in the defense of this country.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the 5 minutes, but the gentleman is a member of the authorizing committee and he knows full well this has to do with authorizing policy. The fact is, we have begun spending money and we have already provided a considerable amount of money to build those silos in Alaska, that are designed to do the testing he says we are not interested in doing.

The reality is that this amendment takes the heart out of our ability to even consider ground-based missile defense, which is pretty fundamental when we consider possibilities for protecting our country in the future.

Because of that, I very, very strongly object to this amendment. I would do so even if I did not object to the fact that the gentleman did not discuss it with us before we came to the floor.

Mr. KUCINICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank the gentleman from Massachusetts (Mr. TIERNEY) for the work he has done on this and ask the gentleman if he would answer a question.

In looking at this presentation here, am I to understand that what the people in charge of this program have done is that they have basically failed to prove in any way that this system can work?

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

Mr. KUCINICH. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, that is absolutely accurate, and when they failed to do that they then tried to change the nature in which they proceed with the system to make it harder to measure, and now they are trying to classify it.

If I could add one word and make note of what the chairman said, this is strictly a matter of money in this case. It identifies only construction issues and not research issues and in no other way impedes the Department of Defense moving forward research on this. In fact, the very point is, let us research and know what it is we are building before we start throwing bad money after good.

Mr. KUCINICH. Reclaiming my time, I appreciate what the gentleman says. Let us just conduct our own simulation here.

Here is an incoming missile. Is there going to be a beacon on an incoming missile?

□ 1245

Mr. TIERNEY. Mr. Chairman, the way they have structured it so far, there will not be any tests before 2004 where the beacon will not be present.

Mr. KUCINICH. So there is an incoming missile for this test that has a beacon on it?

Mr. TIERNEY. Mr. Chairman, it or some of the target suite will have a missile beacon on it.

Mr. KUCINICH. Have they had tests where they had a beacon on it and they failed that test?

Mr. TIERNEY. It is possible, though some of the earlier tests had that scenario.

Mr. KUCINICH. Mr. Chairman, so they had earlier tests when even when they put a sign on it that said hit me, they were still unsuccessful?

Mr. TIERNEY. That is right.

Mr. KUCINICH. Mr. Chairman, so from my colleague's recitation here, what my colleague is saying basically and what has been testified to is that the tests have been basically tricked up to make it appear that this system works?

Mr. TIERNEY. I am saying that the testimony was from the Pentagon's own person, the person who was in charge of doing operational testing and evaluation, Mr. Coyle. It was his job on behalf of the Pentagon, as directed by this Congress, to evaluate whether or not the testing regime was adequate, and it was not. It was basically found that all of these things would not be ready by 2004 and that the whole testing program fell short of giving us any reasonable amount of confidence that the system would be reliable.

Mr. KUCINICH. Mr. Chairman, reclaiming my time, let us just go over this now. My colleague is saying that in these tests they are giving advance information, this missile coming in, they have advance information on what the trajectory is going to be and what the speed is going to be and what time it is going to be launched and where it is going to be launched from and what the countermeasures might be; and even though they have advance information, they still cannot make this work?

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

Mr. KUCINICH. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, they have a history of having failures. They have had some successes, but none of the successes without those additional components.

Mr. KUCINICH. Reclaiming my time, where they have had success, they have been given advance information. Now in a real life scenario are they likely to have advance information on trajectory and speed and launch time? Is that likely?

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

Mr. KUCINICH. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, no, it is not likely; and Mr. Coyle made that point, that they do not have the realistic testing scenarios in place and planned for execution before 2004. That is what they should be doing. They should be having realistic scenarios in place and done and completed and be evaluated before we get to the point of building. We have a very bad history in this country, prior to the legislation we passed to set up Mr. Coyle's Department, of having built things before they were adequately tested.

Mr. KUCINICH. So basically we have a system here where they are testing technology, but they are not accepting the results?

Mr. TIERNEY. Mr. Chairman, we have a system here where they are testing, and they have not tested adequately to get to the point to where they should be constructing.

Mr. KUCINICH. If we were to adopt the gentleman's amendment, how would this effect a beneficial purpose for the American taxpayers?

Mr. TIERNEY. Mr. Chairman, if the gentleman would yield, it would at least stop them from starting to build something that they have not adequately tested. They could continue to research. They could continue to move in the direction of trying to find a way to make a system like this work; but we would not be spending money on building something only to run the extreme risk of having to change it later on at a higher cost and much delay in the program, and that money could then be used more fruitfully on some of the higher priorities of our defense, including homeland security.

Mr. KUCINICH. Mr. Chairman, I want to thank the gentleman for his work on this, and I am supporting his amendment.

Mr. TIAHRT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what I really appreciate about this country is that we can have an open forum and allow two lawyers to talk about rocket science. What the gentleman just brought up here is 12 parameters on a rocket test. I would like to talk just a little bit about speaking on only 12 parameters on a rocket test. The facts of the matter is that there will probably be close to 12,000 parameters addressed in the series of tests that we are going to be doing out of Fort Greely, Alaska. I think before I go on, I want to talk a little bit about why we are going to have these tests.

There is a need to have protection from incoming intercontinental ballistic missiles. Today we know that Russia has those capabilities as do some of the former Soviet countries that were part of the former Soviet Union, USSR. We know China has that capability. India is working on that capability. North Korea is working on that capability and has launched a three-stage rocket. Fortunately, the third stage did not fire, but it is just a matter of time.

Iran, Iraq is also pursuing this technology; but we are not doing it for today. Listening to the previous discussion, it sounded like we were expecting something to be ready either by this December or we should not do it at all. This is a very complex system, but this is a complex system that has had successful tests; and even the gentleman admitted, yes, there have been some successes.

The success was that we fired a rocket off out of the Pacific, a second intercepting rocket was launched from a land-based location, and in essence, a bullet hit a bullet thousands of miles from the location from where either of these rockets were launched, thousands of miles, a bullet hitting a bullet, tremendous success, wonderful success.

I do not think we can get two lawyers, one on each end of the Capitol, have them shoot at each other, ever get a hit on a bullet; but these scientists were able to do this at thousands of miles, a tremendous technical achievement.

We are expecting it to happen immediately, or we should do not it at all? Well, it is going to take time to continue this technology so that we can be successful in protecting, not ourselves necessarily, but our posterity, our children. North Korea does not have an intercontinental ballistic missile yet, but they will have. Countries that are rogue nations, with rogue leaders will have that capability in the future. We do have a constitutional requirement to provide for the common defense of our citizens. We cannot do it without a system like this. It does not happen overnight. We have to work on it overtime. We have to invest time; we have to invest money. We have to expect some failures. But it is an incredible technology.

For us to shut the water off on this is very shortsighted. It ignores the future. It ignores the safety of our citizens, my children, our children. We cannot turn our backs on this. It is a reality. It is an achievable technology. It is a necessity, and for us to stop this is very shortsighted and I think, hopefully, improbable. I think that is the general feeling here in the House is that we should provide for the common defense of our children, and that is a viable means of doing that.

One of the other things I wanted to say about the location is that Fort Greely, Alaska, is probably the best location to run this battery of tests, to measure these parameters. The location has been studied. Construction has already started. It is very important that we continue with this program; and I think that the Pentagon, the administration, the rocket scientists have a very good plan. It is a well-thought-out plan. It measures every facet. It starts with a design concept. It develops documents as to what test requirements are going to be required, what the statement of work, the total environment of this test activity, every little stress point on these rockets that is going to be measured. It is going to be able to hit a bullet with a bullet, thousands of miles over the Pacific or over areas remote from our country; and that is something that we need to think about as a priority for our children, because the reality is, it is going to occur.

My colleagues cannot convince me that Mu'ammar Qadhafi or Saddam Hussein or some future despot is not going to want to use that leverage on America. How do we protect ourselves from that? We have to have a system, an umbrella around our citizens, around our children. So, Mr. Chairman, I ask that this amendment be opposed and that we continue on with the business of the day.

Mr. HINCHEY. Mr. Chairman, I move to strike the requisite number of words.

I, first of all, want to congratulate the chairman of the subcommittee as well as the ranking member for constructing a very good bill. There is no question that this is a very good piece of legislative work. Nevertheless, I rise here this afternoon to support this amendment because I think it makes a very constructive improvement to the legislation that we are currently considering.

A week ago today, the Bush administration unilaterally withdrew the United States of America from the antiballistic missile treaty which had been in effect since 1972. This is a treaty which has stood the American people and the people of the world in good stead for 30 years. It has had the effect of reducing tensions, reducing the likelihood of a nuclear attack by any country; and it is a treaty that I think ought to continue to be in existence, but the administration withdrew us from that treaty so that they could begin the construction of these facilities in Alaska and elsewhere.

In doing so, the allegation is, and we have just heard an exposition of that from the gentleman from Kansas just a moment ago, that all of this is designed to improve our security; but in fact, I think what we are seeing is the opposite is happening. As a result of our withdrawal from the ABM treaty, the Russian military is already talking and pressuring the leadership in Russia to put their missiles on higher alert. They are already discussing multiple, independently targeted reentry vehicles, in other words, MIRVing the system, putting more warheads on their missiles. In other words, the effect of the withdrawal from the treaty has already begun to increase tensions on both sides and putting the Russian nuclear missile system on a higher position of alert.

What this amendment does is prevent the expenditure of $181-plus million for the construction of these silos. It is a very thoughtful and very prudent initiative, and it is one that we ought to follow. We ought to follow it because the expenditure of that money is premature; and if we do expend it and this construction goes forward, it is going to increase tensions additionally even further.

We have also heard it expressed very, very clearly that the physics of this system has not been proved, not in any sense. The success that we heard about just a moment ago is a false success. It is a success that has demonstrated over and over again that in spite of the fact that we know where the launch is coming from, what time the launch is occurring, the trajectory of that launch,

where the missile will be at a precise moment in time, in spite of that, the tests have failed over and other and over again. There has been some minimal success, but the preponderance has been failure.

Such that, as we heard from the gentleman from Massachusetts (Mr. TIERNEY) a moment ago, Phillip Coyle, who is the former Pentagon chief investigator, said earlier this year in February that some aspects of this tall order are virtually impossible; and the overwhelming evidence from the scientific community agrees with that. Scientists over and over and over again studying the physics tell us that we have not tested this system enough to demonstrate that it is going to work; the physics of it are impossible.

So what we are offered here today is an opportunity to improve this bill, reduce the expenditures by $181 million, and instead of increasing tensions and reducing national security, to improve national security by the adoption of this amendment.

I support the amendment, and I hope that the House will do so as well.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

I had not intended to speak on this amendment, but heard the gentleman before me when I just came back from the energy conference to my office. I believe there is a credible nuclear threat against the United States of America. There is a possibility that a rogue nation or terrorist group will deliver a nuclear device to the United States of America, but it will not be on the tip of a missile.

This misbegotten technology, if it ever worked, would not defend against a depressed launched trajectory missile from a submarine, against stealth missiles, against bombers, against all those other threats. But not even those are the real threats, and that is not the real failing of this. It will not defend against the container, one of the 500 million that come to the United States every year. That is the most likely vehicle for a nuclear bomb in the United States of America. A simple bomb attached to a GPS device gets to a certain point in the United States and it blows up.

□ 1300

And guess what? While we are spending $100 billion or more of our hard-earned tax dollars to try and take this totally failed and continually failing system, one that has to be notified in advance, has to have a GPS device tracking the incoming missile, one that cannot take on any sort of devices that would cloak or hide the missile or in any way make it more difficult to hit, they are going to be attacking us in another way.

It is a real shame. The one thing we have that really works are our satellites and our detection capability. The second that one of those rogue nations launches a missile against the United States, we will know it, and in 20 minutes that nation would no longer exist.

They are not going to launch missiles against the United States. They might buy a junk freighter, they might sneak it into a container, or they might put it in a van and drive it across the border from Mexico or Canada. There is a whole bunch of ways they might deliver a nuclear weapon to the United States. And while we are wasting money on this program to enrich the defense contractors with failing technology, they will be making their plans.

It is just extraordinary to me after 9–11, when they commandeered our civilian aircraft and used them as weapons of mass destruction, that we are still obsessed with trying to build technology to fight a threat that does not exist.

Yes, the North Koreans. The North Koreans once launched a missile that, if it had worked, might have reached the United States; and someday they might have two or three of them. Well, the leader of North Korea might be nuts, but he is not nuts enough that he wants to turn his country into nuclear glass.

Our assurance of deterrence, mutually assured destruction, in this case, is not mutually assured. They might hit some tiny corner of the United States, which would be very tragic, and I doubt very much they will even try to do that, but we would totally devastate them. That is not the way they will deliver these threats.

There are credible threats. Let us invest some of this money in a technology to screen the 500 million containers coming into the United States, to screen the Mexican semis that are about to start streaming across the border to all points in the United States with no inspection.

How do my colleagues think they are going to deliver it? They are not going to try to build a missile and then shoot it at us and let us detect it. They will put it in a truck, they will put it in a container, maybe a suitcase or maybe a van. And while we are wasting all this money for technology that probably will not work anyway, they are going to be planning a credible attack.

Mr. DOGGETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in the aftermath of September 11, there is even more interest than usual in rushing legislation through the House. Certainly all of us respect the time, effort, and expertise of this subcommittee in trying to develop the best bill. There is not a Member of this House that does not want to provide every dollar that is essential to securing the future of America and of every American family. But I believe it is appropriate, as is happening here on the floor of the House today, that we at least devote as much time to this expenditure of $354 billion of taxpayer money as we normally allot to a bill naming a post office.

I commend the gentleman from Massachusetts for his courage in advancing these amendments, because the most recent sequel of the Administration's *Star Wars* plans is considerably similar to the most recent sequel of the *Star Wars* movie. It depends in the main on gimmicks and special effects.

One of our colleagues has told us today about the success of one of a number of tests that was done with a bullet hitting a bullet. If my colleagues believe that our adversaries will choose a clear night, will announce the launch time to us, will ensure there is good weather along the full route of the missile, and, in addition, they will place a homing beacon in the missile they are firing at American cities, then, perhaps, with those disclaimers, this is a system worth considering, with one major exception. Because even under those circumstances, even under the best-case scenario, I have yet to hear a single official or a single advocate who has any knowledge about this system who is willing to say that it will be 100 percent successful.

Indeed, most people who have explored this realize that the whole Fort Greely plan is based on the premise: ''Build it and it will work''. And when it works, it will not work 100 percent of the time.

Well, consider with me again the tremendous horror that we all feel as we reflect on September 11, the damage, the destruction, that gouge in the earth that one can see at Ground Zero in New York City; and think for a moment how much worse it would have been if it had been a nuclear device and how many more tens of thousands of families would have suffered, as so many have already suffered from September 11.

Are we to accept as a security system for American families a system that can permit just one New York City or one Chicago or one Austin, Texas that was 85 or 95 percent effective in stopping most of the missiles from coming in? I suggest that is like going out in the rain with an umbrella full of holes. It is better to consider whether there is not a better way to stay dry than to use that kind of leaky umbrella.

It builds a sense of false security. It encourages adventurism. It encourages a foreign policy that promises the American people 100 percent security when, in fact, experts agree we are going to expose some Americans to a nuclear catastrophe to an extent that we have never seen in the history of the world. It would make a Hiroshima or a Nagasaki look like a small disaster in comparison.

I would suggest that, there is not an expert around that does not think if we build at Fort Greely and begin this kind of effort that we will not have more missiles designed to be targeted to the United States by our potential adversaries.

If the Chinese build more missiles, and there has been a suggestion that they would as a result of this kind of

construction at Fort Greely, what impact might that have on the Indians who are a little closer than San Francisco to China? If the Indians begin building more missiles because the Chinese are building more missiles, what impact might that have on the Pakistanis right across the border? And if the Pakistanis build more missiles, what impact might that have on the Iranians, with whom they have had some competition in Afghanistan? And if the Iranians build more missiles, what impact might that have on Israel? And if Israel builds more, what impact might that have on Egypt?

What we are looking at in Fort Greely is the beginning of a system that will lead to destabilization and to an arms race, the ultimate effect of which will be jeopardizing the security of American families.

It is because we share a commitment as deep as the advocates for this bill in the desire to defend our country that we speak out today against Star Wars and in favor of the amendment of the gentleman from Massachusetts, because we believe the true security of our Nation rests on stopping the false security of this phony Star Wars system.

Mr. FRELINGHUYSEN. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. FRELINGHUYSEN. Mr. Chairman, I rise to support the bill and to oppose this amendment and particularly to thank the chairman, the gentleman from California (Mr. LEWIS), and the ranking member, the gentleman from Pennsylvania (Mr. MURTHA), for their work with me, as well as the gentleman from Minnesota (Mr. SABO), on finding a proper replacement for the Crusader.

I want to thank the gentlemen and staff for all their work in protecting those technologies and the brain trust that goes with those jobs.

Mr. Chairman, I rise today in strong support of the Fiscal Year 2003 Defense Appropriations bill. I thank Chairman LEWIS and Congressman MURTHA, the ranking member, as well as their staff, for their work.

We are still a nation at war, and our first and foremost priority at this time must be to the men and women we have called upon to fight. Rightfully, this is the first of the regular FY03 Appropriations bills that this body will consider, and that it should be the first of the FY03 appropriations bills to be sent to the President's desk for his signature.

Since the tragic events of September 11, we have asked a great deal of our military. And Congress has acted to provide them with additional funds to purchase ammunition and equipment, to pay them better wages, and to make sure their families have a decent place to live, access to health care, while their loved ones are fighting for our freedom in Afghanistan, the Balkans, South Korea, the Middle East and around the globe.

But while it is important that we continue to meet the immediate needs of our armed forces, we must begin to look ahead at their future needs, and focus on what investments are truly worthy.

When it comes to war, we want overwhelming superiority in every way. We want our soldiers, sailors, airmen and marines, along with their guard and reserve components, to have the most advanced, most revolutionary, most lethal systems possible.

I am pleased that this bill contains $57.7 billion for research and development on the next generation of fighter jets, ammunition rounds, communications equipment, unmanned aerial vehicles and other critical weapons. This is $4 billion over the President's request and $8 billion over last year's level.

However, this bill does not contain funding for one critical R&D project—the Crusader Self-propelled Howitzer, which Secretary of Defense Donald Rumsfeld proposed terminating. This system would have brought revolutionary technologies to the battlefield and provided a true ''leap ahead'' from the currently fielded Paladin.

While this bill on the floor today meets the administration's objective of terminating the Crusador program, this committee has recognized the need for ground-based indirect fire support capabilities, and it supports a large leap ahead toward developing the Army's next generation of these systems. I want to take this opportunity to thank Chairman LEWIS and Mr. MURTHA and his staff for working closely with me and Mr. SABO to shape the direction of the Army's replacement for the Crusader. They have put in long hours, and I believe they have crafted a compromise which keeps the Crusader's ''brain trust'' intact while moving ahead with the development of a lighter, more mobile, more lethal system.

Air superiority alone cannot win all our nation's future wars. We must maintain robust ground warfare capabilities, including a range of direct and indirect fire support systems. Our soldiers on the ground need direct and indirect fire support systems that can hit their targets, day or night, rain or shine.

One system that will fill that need to provide ground-based fire support is the Lightweight 155mm Towed Howitzer, which the committee has fully funded. This joint Marine Corps and Army program will provide a means for our soldiers to fire the Excalibur precision munition round. The importance of getting this system in the hands of our soldiers and Marines, sooner rather than later, is more critical given the cancellation of Crusader.

Further, to address future indirect fire support needs, the Committee has provided $368.5 million to begin development of a future Army objective force vehicle. These funds include $195.5 million for the maturation and transfer of indirect fire support capabilities from the Crusader, as was requested in the President's recent FY03 Budget Amendment. Additionally, the Committee provided $173 million for the integration of revolutionary cannon technologies onto a new, lighter platform.

As a result of the language so carefully crafted by the chairman and his staff this will allow us to harness the ''brain trust'' behind the development of Crusader's revolutionary technologies—the liquid-cooled cannon, automated loading mechanism, crew compartment and software—and imbed them in a lighter, more mobile, more lethal replacement system. Many of the scientists and engineers responsible for developing these revolutionary Crusader technologies work for the Program Manager for Crusader at Picatinny Arsenal in my district.

I am confident that Picatinny's ''brain trust'' is up to the challenge of developing a system that possesses the capabilities and advances that Crusader would bring to the battlefield in a package that is half the weight, and can become part of the Army's arsenal within the next six years.

Also contained in this bill is funding for a broad range of projects at Picatinny in areas as diverse as homeland defense, smart munitions, nanotechnology and environmental remediation, which I support because they provide our soldiers in the field with the tools they need to win.

I urge my colleagues to stand in support of the men and women who are fighting on behalf of our nation, and to vote for this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TIERNEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. TIERNEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. TIERNEY) will be postponed.

AMENDMENT OFFERED BY MR. COLLINS

Mr. COLLINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLINS:

At the end of the bill (before the short title), insert the following new section:

SEC. ____. None of the funds provided in this Act may be used to relocate the headquarters of the United States Army, South, from Fort Buchanan, Puerto Rico, to a location in the continental United States.

Mr. COLLINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. COLLINS. Mr. Chairman, I rise to offer this amendment to the defense appropriations bill as a technical correction to a situation dealing with the Army South Headquarters. I have discussed this with Chairman LEWIS, Chairman HOBSON, and Chairman YOUNG; and I do believe that the Chair also discussed it with the ranking member.

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

Mr. COLLINS. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, we have no problem with the amendment.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. COLLINS. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, we have no objection to the amendment.

Mr. COLLINS. Mr. Chairman, I thank the chairman and the ranking member for their support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. COLLINS).

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The first amendment offered by the gentleman from Massachusetts (Mr. TIERNEY), the amendment offered by the gentleman from South Carolina (Mr. SPRATT), and the second amendment offered by the gentleman from Massachusetts (Mr. TIERNEY).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. TIERNEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. TIERNEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was refused.

The CHAIRMAN. The noes prevailed by voice vote, so the amendment is rejected.

AMENDMENT OFFERED BY MR. SPRATT

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from South Carolina (Mr. SPRATT) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was refused.

The CHAIRMAN. The ayes prevailed by voice vote, so the amendment is agreed to.

AMENDMENT OFFERED BY MR. TIERNEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. TIERNEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 112, noes 314, not voting 8, as follows:

[Roll No. 269]

AYES—112

Abercrombie
Ackerman
Baird
Baldwin
Barrett
Becerra
Berkley
Blumenauer
Bonior
Brown (FL)
Brown (OH)
Capps
Cardin
Carson (IN)
Clay
Clayton
Clyburn
Conyers
Coyne
Crowley
Davis (IL)
DeFazio
DeGette
Delahunt
Doggett
Duncan
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank
Gephardt
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Holt
Honda
Hooley
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jones (OH)
Kind (WI)
Kleczka
Kucinich
LaFalce
Larsen (WA)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (NY)
Markey
McCarthy (MO)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Miller, George
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Rivers
Roybal-Allard
Rush
Sanders
Sawyer
Schakowsky
Serrano
Sherman
Smith (WA)
Solis
Stark
Strickland
Stupak
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOES—314

Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (SC)
Bryant
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
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
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Mascara
Matheson
Matsui
McCrery
McHugh
McInnis
McIntyre
McKeon
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Myrick
Napolitano
Nethercutt
Ney
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Turner
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Allen
Boehner
Burr
McCarthy (NY)
Northup
Roukema
Sabo
Traficant

□ 1336

Mrs. TAUSCHER and Messrs. OTTER, GEKAS, LANGEVIN, CANTOR, PICKERING, KENNEDY of Rhode Island, HINOJOSA and TOM DAVIS of Virginia changed their vote from ''aye'' to ''no.''

Messrs. INSLEE, WYNN and SAWYER changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read the last two lines of the bill.

The Clerk read as follows:

This Act may be cited as the ''Department of Defense Appropriations Act, 2003''.

The CHAIRMAN. There being no further amendments to the bill, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMKUS) having assumed the chair, Mr. CAMP, 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. 5010) making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes, pursuant to House Resolution 461, he reported the bill back to the House with sundry amendments 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? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the 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.

The SPEAKER pro tempore. The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, this vote will be followed by two 5-minute votes on motions to suspend the rules on the following measures:

House Concurrent Resolution 424;

H.R. 3034.

The vote was taken by electronic device, and there were—yeas 413, nays 18, not voting 3, as follows:

[Roll No. 270]

YEAS—413

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
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 (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sandlin
Sawyer
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
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
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—18

Baldwin
Brown (OH)
Conyers
DeFazio
Filner
Frank
Jackson (IL)
Kucinich
Lee
McDermott
McKinney
Miller, George
Paul
Payne
Sanders
Schakowsky
Stark
Woolsey

NOT VOTING—3

Northup
Roukema
Traficant

□ 1359

Messrs. BROWN of Ohio, JACKSON of Illinois, and PAYNE and Ms. BALDWIN changed their vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 8 of rule XX, the Chair will now resume proceedings on motions to suspend the rules on which the Chair postponed further proceedings in the following order:

House Concurrent Resolution 424, by the yeas and nays.

H.R. 3034, by the yeas and nays.

The Chair will reduce to 5 minutes the time for each electronic vote in this series.

COMMENDING CONTRIBUTIONS OF ROOFING PROFESSIONALS INVOLVED IN REBUILDING OF PENTAGON

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 424.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. SULLIVAN) that the House suspend the rules and agree to concurrent resolution, H. Con. Res. 424, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 428, nays 0, not voting 6, as follows:

[Roll No. 271]

YEAS—428

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen

Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
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 (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—6

Bentsen
Brown (OH)
Northup
Roukema
Slaughter
Traficant

□ 1410

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FRANK SINATRA POST OFFICE BUILDING

The SPEAKER pro tempore (Mr. SHIMKUS). The unfinished business is the question of suspending the rules and passing the bill, H.R. 3034.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. SULLIVAN) that the House suspend the rules and pass the bill, H.R. 3034, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 427, nays 0, not voting 7, as follows:

[Roll No. 272]

YEAS—427

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—7

Buyer
Culberson
Harman
Northup
Roukema
Traficant
Wicker

□ 1419

Mr. FRANK changed his vote from ''nay'' to ''yea.''

So (two-thirds having voted in favor thereof) the rules were suspended and 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. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 5010, just passed, and that I may include tabular and extraneous material at the appropriate place in the RECORD.

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

There was no objection.

COMMENDING MEMBERS AND STAFF OF COMMITTEE ON APPROPRIATIONS

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Speaker, I would like to clarify the Committee's intent regarding the ''SPY–1 Solid State Radar.'' the Committee intends that the entire amount contained in the President's budget under the Sea Based Midcourse for Sea Based Solid State Radar development be used for the development of the S-Band SPY–1E radar.

Mr. Speaker, I did not take the time earlier for we were about to pass the first appropriations bill of the year in record time. There was a small little train wreck that got in the way of that record time; and, thus, I will take a moment that I would have taken earlier to express my appreciation for those who made this success possible.

Both the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) have been very, very helpful in the work of Committee on Appropriations this year as it deals with national defense. I want to take a moment to especially express my appreciation to the gentleman from Pennsylvania (Mr. MURTHA), my partner in this business, for we never would have been able to accomplish the level of bipartisan support we had in the House as demonstrated by the vote without his assistance.

Beyond that, we were both blessed with very, very fine staff on both sides of the aisle who do a fine job. Kevin Roper on my side and Greg Dahlberg on the other side help lead a team of staff people who worked endless hours, weekends, night and day to make sure this bill is not just successful but that it is done in a highly professional manner, and for that we very much appreciate their work.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 463 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 463

Resolved, That it shall be in order at any time on the legislative day of Thursday, June 27, 2002, for the Speaker to entertain motions that the House suspend the rules relating to the resolution (H. Res. 459) expressing the sense of the House of Representatives that Newdow v. U.S. Congress was erroneously decided, and for other purposes.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I consume.

H. Res. 463 provides that it shall be in order at any time on the legislative day of Thursday, June 27, 2002, for the Speaker to entertain motions that the House suspend the rules relating to the resolution, H. Res. 459, expressing the sense of the House of Representatives that Newdow versus U.S. Congress was erroneously decided.

Yesterday was a sad day for the millions and millions of Americans who understand and appreciate the significance of the Pledge of Allegiance.

Incredibly, the Ninth Circuit Court of Appeals decided to overturn a 1954 act of Congress, which added the phrase ''under God'' to the Pledge of Allegiance, ruling that these two words violated the Constitution's Establishment Clause which requires the separation of church and state.

This fatally-flawed ruling, taken to its logical endpoint, would indicate that our currency, which contains the phrase ''In God We Trust,'' is unconstitutional. Clearly, that is not true, but, in the meantime, the Ninth Circuit has issued this inexplicable ruling.

This decision, if not overturned by the U.S. Supreme Court, will force a number of Western States to remove this important phrase from the Pledge of Allegiance.

I am proud to stand with my colleagues today on both sides of the aisle as we fight to protect our American heritage. In bringing the underlying legislation, H. Res. 459, to the floor, we are reaffirming our commitment to bedrock values and beliefs that have made the United States of America the greatest country on Earth. I firmly believe that the Pledge of Allegiance should continue to include the entire phrase ''One Nation Under God.''

I want to thank the chairman of the House Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his leadership in bringing this important legislation to the House floor so quickly, given that the Ninth Circuit's ruling was handed down only yesterday afternoon.

I urge my colleagues and fellow Americans getting ready to celebrate the birth of our country next week to remember the spirit that made us a great Nation.

The phrase ''One Nation Under God'' reflects a spiritual belief that was so important to our forefathers, a belief in God that was instrumental to the founding of our country. I believe we, as members of Congress, we have a duty and an obligation to express our vigorous disagreement with this ruling, rather than simply allow it to stand unchallenged.

On a personal note, Mr. Speaker, in 1976, in the Georgia legislature, my friend, Tommy Tolbert, and I provided an amendment to the education bill that required every class in Georgia to make available at some point during every day the Pledge of Allegiance for the students in those classes throughout Georgia; and now some clown from the Ninth Circus, as it has been called, decides that the Congress did not know what it was doing in 1954.

I urge my colleagues to join me in supporting this rule and then supporting the underlying legislation which will allow the House to go on record in regard to this out-of-touch ruling.

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

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

Mr. Speaker, I thank my colleague, the gentleman from Georgia (Mr. LINDER), for yielding me the customary time.

Mr. Speaker, this rule provides for the consideration of H. Res. 459 under suspension of the rules. The underlying resolution expresses the sense of this House that Newdow versus U.S. Congress was erroneously decided.

Mr. Speaker, I urge my colleagues to support this rule and to support the underlying resolution.

Yesterday, a three-judge panel of the Ninth Circuit Courts of Appeals ruled that the Pledge of Allegiance is unconstitutional. It is difficult to describe that decision as anything but just plain dumb.

I strongly support the separation of church and State, and I strongly support the provision in the first amendment that prohibits government from establishing State-sponsored religion. The first amendment protects American citizens from government interference in their spiritual lives. It allows people to worship as they wish, and it allows them to refuse to worship at all.

The Pledge of Allegiance hardly rises to the level of a mandated national religion. The phrase ''One Nation Under God'' is similar to ''In God We Trust'' on our currency or ''God Bless America'' sung at high school graduations or even sung on the floor of this House. These invocations of God have more to do with tradition and heritage than

with the government forcing people to believe or practice a certain type of faith.

Every day in the well of this House a Member leads us in the Pledge of Allegiance. I had the honor of leading the Pledge of Allegiance just last week. The Pledge is a way for all of us come together, regardless of party or ideology, and express our love for this Nation and our commitment to our democracy. But we also have the right not to say the Pledge at all.

As the Supreme Court ruled in 1963, it is unconstitutional to force people to say the Pledge. And the resolution before us states that the United States Congress recognizes the right of those who do not share the beliefs expressed in the Pledge to refrain from its recitation.

But here come a panel of the often-overturned Ninth Circuit, interestingly enough led by an appointee of the Nixon administration, charging into a nonexistent breach, issuing a divisive and unnecessary ruling. There are so many important issues facing our Nation, and I can say honestly that I have never had a constituent rush up to me in Worcester or Attleboro or Fall River to demand that we remove ''under God'' from the Pledge of Allegiance.

Indeed, yesterday's ruling only serves to trivialize the very real issues of church/state separation that deserve a full and fair hearing before all the branches of government. But the Constitution also protects the right of American citizens to have their day in court. That is what the plaintiff in this case has done; and because of the structure of our government, Congress cannot overturn that decision. We can only express our disapproval, which this resolution does in very clear and appropriate terms.

It will be up to the full Ninth Circuit and possibly the Supreme Court itself to toss this ruling into the dustbin of history where it belongs. In the meantime, Congress has the right to call yesterday's decision what it was, a big fat mistake. I urge my colleagues to support the rule and to support the resolution.

Mr. Speaker, I enter into the RECORD today's editorials from the New York Times, the Washington Post and the Los Angeles Times on this issue, as follows:

[From the New York Times, June 27, 2002]

''ONE NATION UNDER GOD''

Half a century ago, at the height of anti-Communist fervor, Congress added the words, ''under God'' to the Pledge of Allegiance. It was a petty attempt to link patriotism with religious piety, to distinguish us from the godless Soviets. But after millions of repetitions over the years, the phrase has become part of the backdrop of American life, just like the words ''In God We Trust'' on our coins and ''God bless America'' uttered by presidents at the end of important speeches.

Yesterday, the United States Court of Appeals for the Ninth Circuit in California ruled 2 to 1 that those words in the pledge violate the First Amendment, which says that ''Congress shall make no law respecting an establishment of religion.'' The majority sided with Michael Newdow, who had complained that his daughter is injured when forced to listen to public school teachers lead students daily in a pledge that includes the assertion that there is a God.

This is a well-meaning ruling, but it lacks common sense. A generic two-word reference to God tucked inside a rote civic exercise is not a prayer. Mr. Newdow's daughter is not required to say either the words ''under God'' or even the pledge itself, as the Supreme Court made clear in a 1943 case involving Jehovah's Witnesses. In the pantheon of real First Amendment concerns, this one is off the radar screen.

The practical impact of the ruling is inviting a political backlash for a matter that does not rise to a constitutional violation. We wish the words had not been added back in 1954. But just the way removing a well-lodged foreign body from an organism may sometimes be more damaging than letting it stay put, removing those words would cause more harm than leaving them in. By late afternoon yesterday, virtually every politician in Washington was rallying loudly behind the pledge in its current form.

Most important, the ruling trivializes the critical constitutional issue of separation of church and state. There are important battles to be fought virtually every year over issues of prayer in school and use of government funds to support religious activities. Yesterday's decision is almost certain to be overturned on appeal. But the sort of rigid overreaction that characterized it will not make genuine defense of the First Amendment any easier.

[From the Washington Post, June 27, 2002]

ONE NATION UNDER BLANK

In the many battles over how high the church-state wall should be, there has always been a certain category of official invocations of God that has gone untouched. Legislative prayer has been upheld by the Supreme Court, for example. Court sessions begin by asking that ''God save this honorable court.'' America's national motto says ''In God We Trust.'' And the Pledge of Allegiance, since 1954, has described this country as ''One nation under God, indivisible.'' At least it did until yesterday—when a panel of the 9th U.S. Circuit Court of Appeals struck down the words ''under God'' as an establishment of religion in violation of the First Amendment.

If the court were writing a parody, rather than deciding an actual case, it could hardly have produced a more provocative holding than striking down the Pledge of Allegiance while this country is at war. We believe in strict separation between church and state, but the pledge is hardly a particular danger spot crying out for judicial policing. And having a court strike it down can only serve to generate unnecessary political battles and create a fundraising bonanza for the many groups who will rush to its defense. Oh, yes, it can also invite a reversal, and that could mean establishing a precedent that sanctions a broader range of official religious expression than the pledge itself.

All of this might be justified if there were any real question as to the constitutionality of the 1954 law that added God to the pledge. But while the Supreme Court has never specifically considered the question, the justices have left little doubt how they would do so. Even former justice William Brennan—a fierce high-waller—once wrote ''I would suggest that such practices as the designation of 'In God We Trust' as our national motto, or the references to God contained in the Pledge of Allegiance to the flag can best be understood . . . as a form a 'ceremonial deism' protected from Establishment Clause scrutiny chiefly because they have lost through rote repetition any significant religious content.'' Other justices have likewise presumed the answer to the question, and no court of appeals should blithely generate a political firestorm—one that was already beginning yesterday—just to find out whether they meant what they said.

As Judge Ferdinand Fernandez pointed out in dissent, the establishment clause tolerates quite a few instances of ''ceremonial deism'': Is it okay to sing ''God Bless American'' or ''America the Beautiful'' at official events? Is American currency unconstitutional? The answer must be, as Judge Fernandez argues, that in certain expressions ''it is obvious that [the] tendency to establish religion in this country or to interfere with the free exercise (or non-exercise) of religion is de minimis.'' Amen.

[From the Los Angeles Times, June 27, 2002]

A GODFORSAKEN RULING

A panel of the U.S. 9th Circuit Court of Appeals has ruled 2 to 1 that the Pledge of Allegiance—you know, ''I pledge allegiance to the flag of the United States of America . . .''—is unconstitutional. And the reason? Because of that phrase ''under God'' inserted by Congress 48 years ago.

The court said an atheist or holder of non-Judeo-Christian beliefs could see these words as an endorsement of monotheism, even though students can opt out.

''A profession that we are a nation 'under God' is identical, for establishment clause purposes, to a profession that we are a nation 'under Jesus,' a nation 'under Vishnu,' a nation 'under Zeus' or a nation 'under no god' because none of these professions can be neutral with respect to religion,'' wrote Judge Alfred Goodwin.

It's a fundamentally silly ruling, which deserves to be tossed out, as was the initial suit by a Sacramento atheist. For now, erasing the pledge applies only to 9th Circuit states—California, Alaska, Arizona, Hawaii, Idaho, Montana, Nevada, Oregon and Washington. Implementation of the ruling is suspended pending appeals.

The original 1892 pledge didn't contain the phrase ''under God,'' which was added after a vigorous debate during a period of loyalty oaths and Red-baiting. The Cold War insertion of the phrase in 1954 clearly was driven as much by ideology as religion. That said, for all the overheated and dire predictions voiced then, the ''under God'' phrase has in no way led to establishment of an official state religion. Further, the U.S. Supreme Court ruled in 1943 that it was unconstitutional to force pledge recitations. Thus the 9th Circuit decision is a cure without an ailment.

In fact, references to the Almighty have long been an integral part of everyday American life—honest to God. That's not too surprising for a nation initially organized by Europeans fleeing persecution for practicing their beliefs in God. The pledge (''one nation under God, indivisible, with liberty and justice for all'') is recited daily by millions, with few, if any, enforcement problems over which words someone mumbles or skips.

When taking office, many government officials, including judges, take an oath invoking God. Court witnesses swear to tell the truth ''so help me God.'' In fact, the Supreme Court, where this case should go with Godspeed, opens sessions with a reference to God.

And what about that oppressive song ''God Bless America'' that the entire Congress sang on government property after Sept. 11? Then there's the problem of U.S. currency,

which may now be unconstitutional because it says, ''In God We Trust.'' The appeal should come swiftly. God willing, it will.

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

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, today I rise in strong support of this rule and the underlying resolution. Also, I rise today in outrage and indignation over yet the latest manifestation of an ongoing assault on the rights of Americans who cherish their beliefs and their commitment to God.

This is not just about the Pledge of Allegiance, although forcing people to excise God from this voluntary oath is bad enough. A liberal left coalition has been trying to do their best for decades to neuter American traditions that is based on God, beliefs and traditions that Americans have held dear for two centuries.

We see it in the attack on the rights of the Boy Scouts to have God in their scout oaths and have a high moral standard. We see it in our schools when they preempt Christmas programs and instead make them holiday programs. We see it at city halls when all of a sudden a manger scene or some recognition of Hanukkah are left out during those holy months. We see it when the courthouse takes down the Ten Commandments; and we see it when the National Endowment for the Arts subsidizes art works, supposed, so-called art work that attacks Christianity but then passes when it comes to religious works.

□ 1430

Yes, getting God out of the Pledge of Allegiance is bad; but it is part of an attempt, an overall attempt to use the judicial system to attack our fundamental liberties, especially the liberties of those of us who believe in God.

This is one reason why many of us are so concerned about who controls the United States Senate, because it will be the United States Senate who controls who is on the Supreme Court. No one has ever been forced to pray or to acknowledge God, but the liberal coalition that is involved in taking this Pledge and eliminating God from the Pledge are using our courts to attack the freedom of those who do believe in God and attack our rights to our expression.

Today, those of us who believe in God, those of us who cherish liberty need to unite to make sure that those who would use our court system, especially on to the Supreme Court, are defeated in their attempts to neuter America of its traditional recognition of God. I for one stand for liberty, and together we will keep God in our Pledge of Allegiance; and we will defeat this war to sever America and Americans from our religious traditions, and we will protect our people's precious rights to have their faith in God and to express it; and at the same time, we will protect those who do not believe in God.

This is, as I say, a fundamental attack by atheists as part of a liberal left coalition to attack the rights of us who do believe in God to express that, and we need to unite with believers and nonbelievers together for human liberty, which is what America is all about.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. HOLDEN).

Mr. HOLDEN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of the rule and of the underlying resolution. I, like all of my colleagues and the entire American people, are outraged at the Ninth Circuit Court of Appeals, who have declared the Pledge of Allegiance unconstitutional because of the words ''under God.''

Mr. Speaker, patriotism is at an all-time high in rise since September 11 as we stand united behind our Commander in Chief and as we stand behind those brave men and women who wear the uniform daily and are fighting the war on terrorism in Afghanistan and across the world.

This decision could not have come at a worse time. This decision was ill advised. It was ridiculous, and we need to send a clear message that we are going to stand as a Congress to see that the words ''under God'' stay in the Pledge of Allegiance, or what will be next?

Mr. Speaker, above the Chair's head, ''In God We Trust.'' Will that be the next thing to be attacked? Our currency, ''In God We Trust.'' Will that be the next to be attacked? We need to stand united and send a clear message that we are not going to adhere to this ridiculous decision, and I hope it will be overturned as quickly as possible.

Mr. LINDER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise to proudly support the rule and this resolution. One Nation under God, indivisible. If we look in this great Chamber, behind the Speaker, ''In God We Trust.'' My colleagues may not be able to see, but right in front of me, lining this Chamber, there are historical figures. The most central historical figure is Moses, the 10 Commandants. If we look to the symbol of our Nation, the eagle, under the eagle are the words ''e pluribus unum,'' ''for many there is one.''

This Pledge has united school children across our country for generation after generation. It is a uniting force, indivisible. It is not a force of division in our country. It recognizes that our country under God, our liberty under God, our unity under God.

We need to make sure that this out-of-control court is put back in place and that our traditions and our expressions are maintained, whatever it takes.

The dissenting judge in this case says, In God we trust or under God have no tendency to establish a religion in this country or to suppress anyone's exercise or nonexercise of religion except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life. The dissenting judge goes on to say that by this logic ''America the Beautiful,'' ''God Bless America,'' ''The Star Spangled Banner,'' our currency would be wiped away.

We must stop it now. We must stop it today, and we must reestablish that our country is one Nation under God, indivisible, with liberty and justice for all.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding me the time.

Mr. Speaker, I rise in strong support of this rule, this resolution, and the Pledge of Allegiance. Yesterday, a Federal court ruled that the recitation of the Pledge is unconstitutional and all because it contains the words ''under God.'' Mr. Speaker, I strongly oppose this ruling, and I know that I speak for my constituents when I say that the court should reverse itself or the Supreme Court should overrule it. If they do not, then this Congress should act to protect the Pledge of Allegiance.

For decades, Americans have said the Pledge of Allegiance as a way to show their respect and love for this country. We say it every day we are in session here on the floor of the people's House. The pledge is a statement reaffirming our belief in our country and the values for which it stands. Now more than ever those values, liberty, justice, equality, are so needed.

I urge my colleagues to support this resolution and to support the Pledge.

Mr. LINDER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Illinois (Mr. HYDE), my friend.

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

Mr. HYDE. Mr. Speaker, we ought to thank the court. It brought us together, Democrats and Republicans, in unanimity, something that is seldom seen around here.

Actually, though, the court's decision embarrasses us. We have been living in a dream world. Back in the Mayflower Compact in 1620, first sentence, ''in the name of God, amen.''

If we go on through that to the Declaration of Independence, ''We hold these truths to be self-evident, that all men are created equal and are endowed by their creator, with certain inalienable rights, among which are life, liberty and the pursuit of happiness.'' Our human rights are the endowment from the Creator. That is a fundamental premise of America, and it is in our birth certificate, the Declaration of Independence.

The Treaty of Paris, which resolved the Revolutionary War, mentions God.

Abraham Lincoln on November 19, 1863, in a cold, windy little cemetery in Pennsylvania asked a very haunting question, whether this Nation, conceived in liberty and dedicated to the proposition that all men are created equal, can long endure, and the end of that greatest speech in American literature, he says that we here highly resolve but that these dead shall not have died in vain and that this Nation, under God, shall have a new birth of freedom and that government of the people, by the people and for the people shall not perish from the Earth.

So we are embarrassed by the decision. We have been barking up the wrong tree. We thought it was a good thing to acknowledge the fatherhood of God, to acknowledge our debt to Providence and to do so in a public way. The Supreme Court in 1892, in a case called Church of the Holy Trinity versus the U.S. said, ''This is a religious Nation.'' That same court in 1951, in a case called Zorach said, We are a religious people whose institutions presuppose a supreme being.

So this decision by these three judges, two of the three judges in the Ninth Circuit, is based on a total lack of respect, if not knowledge, of American history, of American culture, of American tradition. It is an embarrassment; and we as a coequal branch of government ought to rise up and say no, no, it is wrong, and acknowledge, continue to acknowledge the primacy of the supreme being who has blessed this country for more than 225 years.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise here in support of this resolution. I am a graduate of Cleveland public schools, and I can remember as a little girl at Miles Standish Elementary School learning the Pledge of Allegiance to the flag and it being so important to me. In third grade, we learned French, and we even learned how to say the Pledge of Allegiance in French in that third grade class; and here I stand 53 years old, and I am still able to remember that I said: Je jure fidelite au drapeau des Etats -Unis d'Amerique et a la Republique qu'il represente, une Nation sous Dieu, and so forth. We learned it in French and it was very important to me as I thought about it.

I too am embarrassed by the Ninth Circuit Court. I am embarrassed that this court would take a pledge, when we make allegiance to our country, and try and take it out of context and move on; but I am even more disappointed today in the United States Supreme Court, because I come from the great city of Cleveland.

Today this United States Supreme Court made the decision that vouchers were not unconstitutional, that vouchers in the establishment clause could be used to pay for religious education with public dollars. I was very interested in the decision. It said that parents have a choice to where they send their children, that the dollars go to the parents, and so, therefore, it is not a violation of the establishment clause.

The dissenting justices, who I agree with, said but it is clear based on the facts in this case that 96.6 percent of the students of the Cleveland public schools go to religious institutions and there are very few other options other than religious institutions for these children to go to.

Many of my colleagues know that before I came to this body I served as a judge, and I was very proud to be a judge, and I am very proud of the profession of judges that I sat with and that I served with. But I have to say that these two decisions yesterday, decision in regard to the Pledge of Allegiance to the United States of America and today's decision by the U.S. Supreme Court with regard to vouchers has disappointed me.

The last thing I would say, Mr. Speaker, is as we talk about the importance of this Pledge of Allegiance to the United States, lest we not remember that portion which says with liberty and justice for all, let us make sure that all get liberty and justice.

Mr. LINDER. Mr. Speaker, I am pleased to yield such time as he might consume to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, George Washington was quoted as saying, ''An atheist is a person with no invisible means of support,'' and I think that that person that brought this lawsuit forward, I do not think, I know, he has got the right to feel like he does; but it is also our right to detest that particular point of view.

We stand here today, I do not care if someone is a Christian, Muslim, Jew, I think to denounce that decision that was made in Ninth Circuit Court, and I would tell my colleagues, there was a time in my own life, I was raised in a Christian family, had to go to church every Sunday. When I got out on my own, I could not say that I actually knew that there was a God at one time.

On May 10, 1972, over the skies of Vietnam, my aircraft was hit with a surface-to-air missile and the airplane started going out of control, and it actually rolled upside down; and like many people, the only time I would ever ask for God's help was when I was in trouble. I remember thinking, God, get me out of this, I do not want to be a prisoner of war or die. The airplane righted itself as I took the stick and put it to the left side, and I remember thinking, God did not have anything to do with this, it was just my superior flying skills that righted this airplane; but about that time, the airplane went back upside down, and I remember thinking, God, I did not mean it, get me out of here.

I will tell the people that are atheist or do not support this resolution, all they have to do is get on their knees and say a prayer and I do not care what religion they are, somebody is going to listen.

□ 1445

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman of the Committee on Rules for yielding me this time and also for the very fine presentation that he made today. I think he clarified the debate that will be framed even more as we move into general debate.

I would like to just briefly, though there is much that I can say from the patriotic perspective and my love for this country, but more importantly the great honor I take in saying the Pledge to the United States of America every day, and would encourage the young people of America to take as much pride in pledging loyalty to their Nation. But I do want to speak to the appropriateness of the resolution as it is constructed, and that is a disagreement with the context and the decision of the particular court.

I am very much respectful of the independence of the three branches of government, the executive, the judiciary and the legislative; and so it is appropriate that the context is such that we express disagreement, but I will expand more in terms of debate and discussion on the language that is in this court opinion that suggests that our children will be put in untenable positions of choosing between participation in an exercise with religious context or protesting. That is not accurate.

In fact, what actually occurs is the right of freedom of religion and speech. The speaker has freedom of speech under the first amendment, and the individual who chooses not to say the Pledge of Allegiance has the freedom of religion. Therefore, I am unsure of the line of analysis that the court has made to suggest that one is protesting and that it is untenable. That individual is expressing their freedom of religion by their decision as to not express themselves through the Pledge of Allegiance to the United States of America.

I would hope that as this decision makes its way through to the Supreme Court we will once and for all understand the context of the first amendment, that is the freedom of expression, the freedom of religion, and the choice to do so.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume, and I would close by urging my colleagues to support this rule and support the underlying resolution.

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

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume, and I urge my colleagues to support this resolution and to support the underlying bill.

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.

SENSE OF HOUSE THAT NEWDOW V. U.S. CONGRESS WAS ERRONEOUSLY DECIDED

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 459) expressing the sense of the House of Representatives that Newdow v. U.S. Congress was erroneously decided, and for other purposes.

The Clerk read as follows:

H. RES 459

Whereas on June 26, 2002, the Ninth Circuit Court of Appeals held that the Pledge of Allegiance is an unconstitutional endorsement of religion, stating that it ''impermissibly takes a position with respect to the purely religious question of the existence and identity of God,'' and places children in the ''untenable position of choosing between participating in an exercise with religious content or protesting.''

Whereas the Pledge of Allegiance is not a prayer or a religious practice, the recitation of the pledge is not a religious exercise.

Whereas the Pledge of Allegiance is the verbal expression of support for the United States of America, and its effect is to instill support for the United States of America.

Whereas the United States Congress recognizes the right of those who do not share the beliefs expressed in the Pledge to refrain from its recitation.

Whereas this ruling is contrary to the vast weight of Supreme Court authority recognizing that the mere mention of God in a public setting is not contrary to any reasonable reading of the First Amendment. The Pledge of Allegiance is a recognition of the fact that many people believe in God and the value that our culture has traditionally placed on the role of religion in our founding and our culture. The Supreme Court has recognized that governmental entities may, consistent with the First Amendment, recognize the religious heritage of America.

Whereas the notion that a belief in God permeated the Founding of our Nation was well recognized by Justice Brennan, who wrote in School District of Abington Township v. Schempp, 374 U.S. 203, 304 (1963) (Brennan, J., concurring), that ''[t]he reference to divinity in the revised pledge of allegiance . . . may merely recognize the historical fact that our nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact.''

Whereas this ruling treats any religious reference as inherently evil and is an attempt to remove such references from the public arena.

Now, therefore, be it resolved by the House of Representatives, That it is the sense of the House of Representatives that—

(1) the Pledge of Allegiance, including the phrase ''One Nation, under God,'' reflects the historical fact that a belief in God permeated the Founding and development of our Nation; and

(2) The Ninth Circuit's ruling is inconsistent with the U.S. Supreme Court's First Amendment jurisprudence that the Pledge of Allegiance and similar expressions are not unconstitutional expressions of religious belief; and

(3) The phrase ''One Nation, under God,'' should remain in the Pledge of Allegiance and

(4) the Ninth Circuit Court of appeals should agree to rehear this ruling en banc in order to reverse this constitutionally infirm and historically incorrect ruling.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on House Resolution 459, the resolution under consideration.

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

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, yesterday, the Ninth Circuit Court of Appeals in San Francisco topped itself, not an easy accomplishment for the court of appeals with the dubious record of being most likely to be reversed by the U.S. Supreme Court. It did so by ruling in Newdow v. U.S. Congress that the voluntary recitation of the Pledge of Allegiance by public school students is an unconstitutional endorsement of religion and, thus, a violation of the first amendment's establishment clause.

Immediately following this decision, I introduced House Resolution 459, expressing the sense of the House that the Newdow case was erroneously decided by the Ninth Circuit and the court should agree to rehear this ruling en banc.

The Ninth Circuit ruling treated the word God as a poison pill. Rarely has any court, even the notoriously liberal Ninth Circuit, shown such disdain for the will of the people, an act of Congress and our American traditions. What is next, a court ruling taking ''In God We Trust'' off the money, which the dissenting judge expressed his concern about? Or how about banning the performance of God Bless America from 4th of July celebrations at local courthouses and in parks next week?

Any fourth grader knows that the Pledge of Allegiance is not a prayer or a religious practice. Therefore, its recitation is not a religious exercise. Rather, as my resolution states, it is a verbal expression of support for the United States of America, and its effect is to instill support for the United States of America.

In truth, yesterday's ruling is the latest in a string of rulings by misguided courts misinterpreting the Constitution's establishment clause. Under West Virginia Board of Education v. Barnette, cited by the Supreme Court in 1943 and which is still good law, individuals cannot be compelled to recite the Pledge of Allegiance, and in this case children were not compelled to say the Pledge.

We recognize the right of those who do not share the beliefs expressed in the Pledge not to participate, but this ruling treats the mere reference to religion as inherently evil and coercive. It is simply a barefaced attempt to remove all religious references from the public arena by those who disagree. In effect, it is a heckler's veto.

Our Nation's founders based their claim of independence upon the laws of nature and nature's God. The Founders of our Nation declared all men to be endowed with inalienable rights by their creator and urged their revolution relying upon the protection of divine providence. Thus, God is referred to or alluded to four times in the Declaration of Independence and countless times in other documents.

In the years since the ratification of the Constitution, beginning with President George Washington's administration, religious services have been conducted in government buildings, including the halls of Congress. The Supreme Court begins each session with ''God Save the United States and this Honorable Court.'' The Supreme Court has upheld the offering of a prayer by a publicly-funded chaplain to open legislative sessions. Lower Federal courts continue to uphold the constitutionality of the Federal Government's Christmas holiday as well as the placement of In God We Trust on our currency. If the Pledge of Allegiance is unconstitutional, then certainly these traditions and even the Declaration of Independence are as well.

The fact of the matter is that these statements of patriotism reflect the love Americans feel for their country and recognizes the fact that our Nation was founded by brave men who stood on the principle that all men possess inalienable rights endowed not by man but by God. This view continues to be shared by most Americans today.

In this time of profound challenges facing our Nation, the last thing our citizens need is two irresponsible judges using the Pledge of Allegiance to promote what can only be characterized as an effort to purge the public arena of all religious references.

Yesterday's ruling is dumb. It is an insult to the brave men that founded our Nation and preserved it for over 200 years, and we in Congress should do whatever it takes to void this laughable ruling.

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

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

Mr. Speaker, I believe the reasoning in the majority opinion in this case is sound. It outlines how the phrase ''under God'' is in violation of all of the differing standards developed by the Supreme Court over the last 50 years to evaluate challenges under the establishment clause of the first amendment to our Constitution.

Nevertheless, Mr. Speaker, I tend to agree with the dissent in this case; and the operative language that persuaded

me is language on page 9132, which says, ''But, legal world abstractions and ruminations aside, when all is said and done, the danger that ''under God'' in our Pledge of Allegiance will tend to bring about a theocracy or suppress somebody's beliefs is so minuscule as to be de minimis. The danger that phrase presents to our first amendment's freedoms is picayune at most. Judges, including Supreme Court Justices, have recognized the lack of danger in that and similar expressions for decades, if not for centuries.''

But whatever we think of the decision, Mr. Speaker, the only thing worse than the decision is the spectacle of the Members of the United States House of Representatives putting aside discussions of prescription drug benefits under Medicare to take up and pass this resolution. When we were sworn in, we promised to uphold the Constitution, and it is important to acknowledge that any court ruling based on constitutional rights will be unpopular. If the issue were popular, the litigant would vindicate his rights using the normal democratic process. Obviously, the fact that the litigant had to rely on constitutional rights means that he was in the minority.

This is the way it always is with constitutional rights. An individual does not need a constitutional right of freedom of speech to say something popular. They only need it when the majority has the legislative and police power to stop them from expressing their views, and the decision will obviously not be politically popular.

In that light, Mr. Speaker, what Members of Congress think of the decision is irrelevant. If the judicial branch finds the Pledge to be unconstitutional, which I do not believe it will ultimately do, no bill we can pass will change that.

Mr. Speaker, because the decision is based on constitutional rights, it will always be unpopular, and what we think about the decision is irrelevant, and because we have important business to address, I would hope that this resolution will be defeated.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding me this time.

I just want to answer the last speaker. That kind of attitude that thinks that when a judge speaks that that is the law of the land, well, it does not work that way by the Constitution. There are checks and balances in our Constitution, and what Congress does is relevant to what the judiciary does.

Congress is going to stand up in this particular case and fight the judiciary of this country and stop them from running amuck. There is accountability built into the Constitution, as long as this Congress understands that they have a responsibility to defend the Constitution against a runaway judiciary.

It appears that this Ninth Circuit Court of Appeals has experienced another short-circuit. This court went way too far, and we know that. This Congress is committed to righting that court's wrongs, starting right here, right now, today.

Now, according to this absurd logic, the following could be in danger of being outlawed:

The four mentions of God in the Declaration of Independence that made our country free; the oath that each President takes to uphold the Constitution, which holds our Nation together; the words etched right here above the Speaker in this august institution that helps govern our Nation; the phrase that begins with each U.S. Supreme Court session, ''God Save the United States;'' the oath of witnesses to tell the truth in courts that protect us; our own currency that keeps our Nation prosperous; and the singing of God bless America on the steps of this Capitol that signaled yesterday our resolve.

So as my colleagues can see, this absurd decision was made by a court run amuck; and I urge all our Members, of all political stripes, to send a very clear message and put the stars and stripes, along with the words ''God Bless America'' as the banner for their .gov websites.

As upset as we all are, once again we must summon the best in us to defend this one Nation, under God, indivisible, with liberty and justice for all. This Congress is not going to let anyone strip our Nation of our proud heritage; not now, not ever.

□ 1500

Mr. SCOTT. Mr. Speaker, I yield 30 seconds to myself.

Mr. Speaker, on constitutional issues, the judicial branch and the Supreme Court is the law of the land, even if those decisions are unpopular.

If we had to wait for school integration to be popular in America, people in many States would still be going to segregated schools. It is important that we note that the Supreme Court is the law of the land on constitutional issues.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I indicated earlier today that I adhere to the loyalty Pledge that is taken by all of us to pledge allegiance to the United States of America and find comfort in the fact that since 1954, we have been able to say ''one nation under God, indivisible.'' I say it without hesitation, and I support this resolution.

Allow me, however, to track an understanding for the American people. I think that is important. It is likewise important to acknowledge the status and the position as it relates to the laws of the land that the courts have. My colleague from Virginia is absolutely correct. When we look to the courts, we look to them to establish a body of law; and, of course, the Congress has a responsibility as an equal in the lineage of hierarchy in this Nation, judicial, legislative and executive, to speak its will and its mind.

What I consider the resolution today is a Congress speaking its will and its mind. It is speaking to the American people. It is saying all is well. It is suggesting to them its interruption of the utilization of the Pledge of Allegiance, something that is done most mornings in our schools around the Nation, most times at ceremonial activities, and certainly after September 11, recognizing the privilege we have in this country to pledge allegiance to the flag of the United States of America.

But allow me to take the first amendment again and refer us to it as I read from the Constitution of the United States which says ''Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press or the right of the people peaceably to assemble and to petition the government for a redress of grievances.''

Mr. Speaker, I believe the first amendment is the first amendment because the Founding Fathers thought this had to be one of the highest tenets of our democracy. Why? Because our country was founded on those who were fleeing from persecution.

I would take issue, and I have the right now as I am debating on this floor, I have a right to take issue, I have a right to make a statement of what I believe in, is that in pledging allegiance to the flag or not pledging allegiance to the flag, Americans are exercising their freedom of religion. It is not classified or should not be classified as forcing someone to protest. An individual is absolutely within their right to exercise their freedom of religion.

I disagree with the decision of this particular court, but I do believe it has the right to move forward through the judicial process to express its view as well.

Let me share the dissent of the court that I think is accurate. Judge Ferdinand Fernandez pointed out in dissent: ''The establishment clause tolerates quite a few instances of ceremonial deism. Is it okay to sing 'God Bless America' or 'America The Beautiful' at official events? Is American currency unconstitutional?''

The answer must be, as Judge Ferdinand Fernandez argues, that in certain expressions it is obvious that the tendency to establish religion in this country ought to interfere with the free exercise or nonexercise of religion is de minimus.

My point is to take that a step further and suggest that the first amendment allows one to exercise their religious faith. In not saying the Pledge of

Allegiance, it is exercised. It is not a protest. I say it. I willingly say it. I believe it should be said. I do not believe it is unconstitutional. I believe this resolution is intact and appropriate because it allows an equal, independent branch of government to express its viewpoint on a decision that is made. We all have to adhere to the procedures of this lands, the democracy as it works; and that is a republic, three branches of government. We will watch this case as it goes forward. I proudly rise to support this resolution because I believe the interpretation is accurate.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I am a little bit disturbed that what the gentleman from Virginia (Mr. SCOTT) seemed to have said was that Congress should never question a court decision that is based on constitutional grounds. Had he and I been in Congress before the Civil War when the Supreme Court decided the Dred Scott case, I am sure both of us would be asking the House of Representatives to go on record opposing that decision as being misguided. We are doing something similar to that today.

Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. CHABOT).

Mr. Speaker, as chairman of the Subcommittee on the Constitution, I rise in strong support of this resolution and against the court's decision. The Ninth Circuit Court of Appeals' ruling that the Pledge of Allegiance is an unconstitutional endorsement of religion is a complete misinterpretation of constitutional law. I would hope that this outrageous decision by this three-judge panel will be quickly overturned by the full Ninth Circuit Court or, if necessary, by the United States Supreme Court.

Incredibly, while Americans are pulling together following the horrific events of September 11, a panel of liberal Federal judges has chosen to challenge the time-honored Pledge of Allegiance. Like most Americans, I reject the court's unconscionable decision and stand resolutely with my colleagues today as we vote overwhelmingly to oppose this attack on an American symbol that we all hold dear.

Mr. Speaker, for all of the veterans who risked their lives for our country, for all the servicemen and servicewomen who serve today, and for all of our children who recite the Pledge every morning with respect and admiration, I urge my colleagues to support this resolution and condemn the court's decision.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I indicated my support for this resolution because I believe this is an appropriate comment time by the House. Let me also suggest to Members, however, that what happens with this kind of approach, and I am at this moment thinking of this because it is of such concern to me, my colleague from Ohio mentioned this, and the distinguished chairman mentioned the Dred Scott case, and none of us would claim to be in the House at that time in the 1800s. Maybe we are looking quite young at this point, but I would join him in asking for a commentary on that case.

Likewise, some of us are going to be asking for a comment on the question dealing with the constitutionality of vouchers. We happen to believe that that fosters segregation, as opposed to opening the doors of opportunity. What this does, in fact, is I hope out of the spirit of bipartisanship, and I certainly hope the distinguished majority whip was not suggesting that this issue is liberal or conservative, we are all over the lot on this particular legislative initiative. I support it, but I am going to be looking for bipartisan support when it comes to discussing what I think is an untimely decision on the voucher issue, and certainly an untimely issue as I review it, dealing with the question of drug testing. What we are trying to do here is improve the constitutional rights and freedoms of Americans, not diminish them.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HYDE), the former chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I just want to comment on what has been said by the gentleman from Virginia (Mr. SCOTT) and the gentlewoman from Texas (Ms. JACKSON-LEE).

I could not disagree more. What they are saying is because this is de minimis, because that was in the dissenting view, therefore, it is okay to let it go. That is a way of standing on two stools. That is a way of having it both ways because it is not important.

Well, I do not think that it is unimportant. I do not think that it is trivial. I think acknowledging the primacy of almighty God is of transcendent importance, and I guess de minimis is in the minds of the analysts; but I could not disagree more. In addition to the Dred Scott case, Plessy v. Ferguson, there is a whole line of cases that I am sure the gentleman from Virginia (Mr. SCOTT), my distinguished learned friend, would disagree with and not invest them with a dignity because they come from the Court.

And, lastly, I point out to my dear friend, the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), that the first amendment has two parts: the establishment and the free exercise.

Mr. SCOTT. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, if the distinguished gentleman from Illinois (Mr. HYDE) would listen, the chairman, he has misinterpreted my entire remarks. I quoted from the dissent, and what I said was out of the dissent of Judge Fernandez, I believe, that any commentary about God is de minimis in terms of saying that someone is practicing religion. I support the fact that saying ''under God'' is not violating religious freedom.

Mr. HYDE. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, it is ''de minimis'' that offends me.

Ms. JACKSON-LEE of Texas. It is in the court's ruling.

Mr. HYDE. Mr. Speaker, I understand the court's ruling, and it was in the editorial in the Washington Post; but I disagree.

Ms. JACKSON-LEE of Texas. It is in the dissent.

Mr. HYDE. I disagree.

Ms. JACKSON-LEE of Texas. Mr. Speaker, in reclaiming my time, if the gentleman from Illinois (Mr. HYDE) disagrees, would he please indicate that he is disagreeing because he does not like the term ''de minimis'' used by the judge who is supporting his position, because I am supporting the position that we have a right to comment on it and am supporting the resolution. Please make sure that is clarified.

Mr. HYDE. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Illinois.

Mr. HYDE. I object to ''de minimis'' from whatever source.

Ms. JACKSON-LEE of Texas. I will cite that to the Washington Post.

Mr. SCOTT. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore (Mr. SHIMKUS). Both sides have exactly 10½ minutes remaining.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

The game is just beginning. We are in the first inning of what may turn out to be a long game in trying to overturn this decision by the Ninth Circuit. We must remember that this was only a three-judge panel, not representing necessarily the total views of all the Ninth Circuit. In that regard, we have directed that a letter be sent to the presiding judge of the Ninth Circuit to ask that they reconsider the decision rendered by the three-judge panel, which is within our right to ask and which is within the right of the Ninth Circuit to reconsider. So now we stretch out the possibilities that we have to overturn this decision. If they do the right thing and overturn their own panel, the game has ended. If not, then the game stretches on to the Supreme Court, which will undoubtedly undertake this case.

We will be guided when we see it go to the Supreme Court with the fact that another circuit has found just the opposite of what the Ninth Circuit may be leading to draw, and so we are strengthened by the resolve that when

it goes to the Supreme Court we will have precedent on the other side of the issue and we will have in front of the Supreme Court in the final innings of this game the undoubted wholesome fulsome support of the American people.

The Supreme Court of the United States cannot, cannot, discount the popular will of the people of the United States in this regard. So my ultimate position in all of this is that this will not stand even if we have to then undertake a constitutional amendment if the Supreme Court should disappoint us in this particular issue; and if that happens, all the more reason why we can say this will not stand because Americans stand together.

Mr. SCOTT. Mr. Speaker, prior to yielding to the gentleman from Maryland (Mr. HOYER), the gentleman from Illinois (Mr. HYDE), chairman of the committee, indicated what would happen if we had taken a position on Plessy v. Ferguson or Dred Scott. The litigants in those cases, Mr. Speaker, lost and I suspect that the Congress might have even approved of that.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER).

□ 1515

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

Mr. Speaker, our Nation's greatness derives not only from our commitment to tolerance and a profound belief in the separation of church and state but also from the fact that we have always been, and hopefully will always be, a Nation of faith.

Our Declaration of Independence which we celebrate 1 week from today avowed, and I quote, ''firm reliance on the protection of divine providence.'' Every one of our 43 Presidents has said a prayer or invoked God during their inaugural address. And our Pledge of Allegiance has included the phrase ''one Nation under God'' since 1954, harkening back to, 100 years prior to that, the remarks of President Lincoln in his Gettysburg address.

Yesterday, the Ninth Circuit Court of Appeals held that the acknowledgment of a power greater than ourselves or the state was somehow unconstitutional, notwithstanding the language of Thomas Jefferson in the Declaration of Independence that we hold these truths to be self-evident that all men are created equal and endowed, not by the state, not by the majority, but by their creator with certain unalienable rights, and among these are life, liberty and the pursuit of happiness. That is what we acknowledge when we say ''in God we trust.'' That is what we acknowledge when we say ''one Nation under God, indivisible with liberty and justice for all.''

I adamantly disagree with this misguided decision which runs counter to our cultural and historical traditions. I have high hopes that upon reflection that either the Ninth Circuit itself or the Supreme Court will reverse this erroneous and harmful decision.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. PENCE), a member of the Committee on the Judiciary.

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time.

Like most Americans, Mr. Speaker, I believe in this country, I believe in God, and I believe in the power and importance of allegiance to our flag. So I rise today in strong support of the resolution. Like millions of Americans, I was shocked and appalled by the Ninth Circuit's ruling that references to God in the Pledge of Allegiance are unconstitutional.

Mr. Speaker, we opened this House in prayer to God today. The walls of this temple of democracy bear His name. But we are told that it is unconstitutional for our children to name God as they acknowledge their fealty to that very same Nation.

Sadly, this decision is part of a 35-year history by radical secularists who would twist the freedom of religion into freedom from religion. We must reject this course of judiciary decisions. We must pass the resolution and reaffirm a right understanding.

I pledge myself to fight every decision by the judiciary, including this one, that seeks to drive expressions of faith, the Ten Commandments, and voluntary prayer out of schools and out of every corner of American life, so help me God.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I rise to support this resolution. I want to particularly commend the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman, for bringing this resolution to the floor in a speedy fashion.

The American people are crying out for action. Here we are in the midst of a war. Our homeland has been attacked. The faith that many Americans have had has been rekindled. And now we are faced with this overreaching, inappropriate act of a court that is misinterpreting our Constitution.

There will be a lot of talk about the power of the judiciary versus the power of the legislative branch. But I would just like to remind all of our colleagues that the Constitution begins with ''we the people'' and that it has really vested in the American people the authority to make decisions, and they ultimately decide what will happen.

I believe that today the American people are clearly crying out, ''Overturn this decision.''

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in opposition to this ruling which found our Pledge of Allegiance unconstitutional. The Pledge of Allegiance is a sacred oath all Americans take to uphold the values of freedom and independence for which so many veterans have fought and died. It is an outrage that today as our brave men and women are overseas defending our great country against the threat of terrorism, these words that represent the very core of the American values come under attack.

I ask my colleagues and the American people again to show our independence and protest the Ninth Circuit Court of Appeals decision by joining together as ''one Nation under God'' to recite the Pledge of Allegiance on that day we celebrate soon, 226 years of independence, on July 4. I ask all Americans to stop what they are doing on that day this July 4 and with hand over heart recite the Pledge that has reminded millions of schoolchildren each and every day of why America is the greatest Nation on the face of the Earth.

Mr. SCOTT. Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me say at the outset that when the vote is put on this resolution, I intend to vote ''present.'' I have had a discussion with the gentleman from Virginia (Mr. SCOTT) earlier today about whether I agree or disagree with the court's opinion, the majority opinion, a 2–1 opinion, a part of the court; and I told him I thought I agreed more with the dissent in the case than I do with the majority.

But that is almost a side issue here. The real issue is what the gentleman from Pennsylvania (Mr. GEKAS) started to say, I think, was that the process is still continuing. Three people have entered a decision, a 2–1 decision. That decision no doubt will be reviewed by the entire circuit court and no doubt ultimately be reviewed by the United States Supreme Court. And while I recognize that this body has a prerogative to express an opinion about anything it wants to express an opinion about, I just do not think that I want to be a party to joining in the collective expression of an opinion of the legislative side of government to the judicial side of government on this issue, particularly when the case is still pending before the court and we do not know its ultimate disposition.

I have strong opinions about this issue. I think the Bill of Rights' first amendment and other amendments in the Bill of Rights was intended to protect those who are in the minority. Obviously, people who do not believe in some God are in the minority; but they are entitled to have their rights protected, too, and not to be in a coercive setting, so I can certainly understand the decision, although I do not necessarily agree with it. I just think at this juncture this body should not be expressing itself on this issue.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time, and I commend Chairman SENSENBRENNER for bringing this measure to the floor at this time.

Mr. Speaker, I rise in strong support of H. Res. 459, expressing the sense of Congress that Newdow v. U.S. Congress was erroneously decided by the Ninth Circuit Court of Appeals. The Federal court's decision is truly an insult to our Nation, a disgrace and an absurdity of justice. Moreover, it defies the basic principles of reason and good judgment. It is particularly outrageous that such a ruling was made at a time when our Nation's dedicated men and women are fighting an ongoing war against global terrorism, the very epitome of evil. What kind of message does this court's ruling send to our enemies? What message does it send to our patriotic military personnel out there on the front lines?

Accordingly, I urge the court to rehear the ruling with all due speed and overturn this egregious injustice perpetrated against the very principles upon which our great Nation was founded.

Mr. SENSENBRENNER. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me this time.

I just want to, I guess, me-too-it as much as possible on this. I think it is incredible that at a time when our Nation is at war, when we have suffered one of the greatest domestic tragedies in our history, that a court would be so out of touch with America that they would say this is what we need at this point in time, reversing all the other court decisions.

I certainly stand in strong support of this resolution. I just want to say when I was in Afghanistan back in January, one of the proudest things I saw were all the young men and women on the USS *Theodore Roosevelt* saluting the flag which Rudy Giuliani had flown over the rubble of the World Trade Center. I am glad that they also said the Pledge and that they know that we are one Nation under God.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING), the cosponsor with me of this resolution.

Mr. PICKERING. Mr. Speaker, I rise proudly as a cosponsor of this resolution. For over a generation now, our courts have taken the wrong path, eliminating prayer from schools, eliminating Christmas from our courthouses. They are saying today in our courts that access to child pornography is a constitutionally guaranteed right, and today they are saying that saying the Pledge of Allegiance is unconstitutional.

Something is wrong. They are trying to drive God from the public square, and this is their fallacy. We believe that our creator endows all men with the right to life, liberty and the pursuit of happiness. History shows that every godless state every time trampled on the rights of life, liberty and the pursuit of happiness. Under God and through our creator, we have our rights. We must never forget that. We must protect it so those who disagree with us will have their rights protected as well.

I urge my colleagues to continue standing for the expression of our freedom under God.

Mr. SCOTT. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Michigan is recognized for 5½ minutes.

Mr. CONYERS. Mr. Speaker, I would like to begin by commending the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), and the manager of this measure, the gentleman from Virginia (Mr. SCOTT), for the excellent way that they have conducted it. It has been a fair and, I think, revealing discussion that is so important. I cannot help but also note that the former chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), has considered this an issue of great importance, as has our colleague, the gentleman from North Carolina (Mr. WATT), and the gentlewoman from Texas (Ms. JACKSON-LEE). This is important.

This radical secularist decision was rendered by Judge Alfred T. Goodwin, appointed by past President, Richard Milhouse Nixon. And so for all of you who are leading the attack on the left, I do not know this judge and I do not know what his position was, but he passed muster in the Senate, he was reviewed and favorably considered by a sitting Republican President, and I think that it is very important that no one question the right of the Members of the House of Representatives to express their opinion on this decision or any other decision.

What I fear is that it may be intended by some for political gain. But that is not a new feature in the course of our discourse in the House of Representatives. Or some who may be trying to discredit the judiciary in general for the work of two people on the Ninth Circuit.

□ 1530

Certainly, the three-judge panel of the Ninth Circuit Court of Appeals appears to have presented a ruling that runs counter to the existing precedent regarding the establishment clause, and as someone with great respect for our Pledge of Allegiance, I do not believe its recitation substantively infringes on freedom of religion.

Now, interestingly enough, just hours ago the United States Supreme Court ruled in a 5–4 decision that taxpayer funds can be used in voucher programs to support parochial schools. This ruling has been regarded generally as the worst church-state ruling in the last 50 years. Do we have any resolution on that one?

The Supreme Court today upheld the random drug testing of high school children, even those not suspected of wrongdoing. It is hard to imagine an opinion more objectionable from a privacy standpoint, but do we have anyone calling for a resolution of a program on that?

And then I have colleagues who come to the floor claiming that this is a shocking sign of some fundamental defect in the judiciary. Now, unlike Bush v. Gore, this decision can be appealed, and where there is a strong probability that it will be overturned. This has been observed as just the first step in a judicial process that usually and ultimately gets it right. From Plessy v. Ferguson to Brown v. the Board of Education, to the issue of executing mentally impaired prisoners, the courts who may have originally lost their way ultimately find it again.

But lost in today's debate and in the resolution before us is the value of our judicial system, the crown jewel of our democracy.

Our Founders, in their wisdom, created a system of checks and balances. Independent judges with lifetime tenure were given the tremendous responsibility of interpreting the Constitution. So it is no surprise over the years that the judiciary has ultimately been the greatest protector of our rights and our liberties. The fact that one panel of the Ninth Circuit that has rendered this opinion should do nothing, I hope, to diminish from Members our general, overarching respect for the judiciary.

All of this might be justified if there was any real question as to the constitutionality of the 1954 law that added God to the pledge. But while the Supreme Court has never specifically considered the question, the justices have left little doubt how they would do so. Even former Justice William Brennan—a fierce high-waller—once wrote "I would suggest that such practices as the designation of 'In God We Trust' as our national motto, or the references to God contained in the Pledge of Allegiance to the flag can best be understood . . . as a form a 'ceremonial deism' protected from Establishment Clause scrutiny chiefly because they have lost through rote repetition any significant religious content." Other justices have likewise presumed the answer to the question and no court of appeals should blithely generate a political firestorm—one that was already beginning yesterday—just to find out whether they meant what they said.

Half a century ago, at the height of anti-Communist fervor, Congress added the words "under God" to the Pledge of Allegiance. It was a petty attempt to link patriotism with religious piety, to distinguish us from the godless Soviets. But after millions of repetitions over the years, the phrase has become part of the backdrop of American life, just like the words "In God We Trust" on our coins and "God Bless America" uttered by Presidents at the end of important speeches.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I agree with my distinguished ranking member, the gentleman from Michigan (Mr. CONYERS), that the Congress should not pass resolutions like this every time some of us disagree with a court decision. However, this court decision was so out of bounds in terms of basic American values as well as judicial precedent that I think that we would be remiss in our responsibilities as representatives in an equal branch of government not to express the fact that we strongly disagree with what the two judges that struck down the Pledge of Allegiance decided yesterday. So that is why this resolution is here before us.

If we look at the consequences of this decision becoming law, they are just mind-boggling. We have heard about the currency being placed at risk. Maybe we ought to pay those two in rubles or euros or something that does not have the offensive motto ''In God We Trust'' on it.

The Declaration of Independence refers to God either directly or indirectly in four separate places, and the signers of the Declaration of Independence called upon divine providence to support the revolution against the English crown. What if that is unconstitutional? Would Queen Elizabeth come back here to reclaim her sovereignty? I do not think so.

But I think that it is important that while the Court has a chance to change its mind rather than writing something in that can only be overturned by a constitutional amendment, that we express ourselves, and that is exactly what we are doing in this resolution.

Mr. Speaker, I could not believe the contorted logic that the two judges that were in the majority in the Newdow case used yesterday. They said that because all of the other kids except Mr. Newdow's daughter got up and recited the Pledge of Allegiance, they were coercing her to do the same. Now, that is ridiculous.

The Court, since 1943, has said, you cannot compel everybody to say the Pledge of Allegiance, and those who voluntarily do not wish to participate are perfectly and legally able to sit down and not do so. But to use the logical extension of the Court's contorted thinking, it gives every heckler and every dissident a veto over what the majority would like to do and to do it in a way that does not coerce somebody who is not in the majority from doing something against their own principles or their own beliefs. This resolution tells the court that they were wrong, that they should review and reverse.

Mr. BARR of Georgia. Mr. Speaker, I rise today to support passage of H. Res. 459, ''Expressing the Sense of the House of Representatives that Newdow v. U.S. Congress was Erroneously Decided.''

The Pledge of Allegiance is as much of a child's school day, as English, Math, or even recess. Yesterday, two activists jurists sitting on the 9th Circuit Court of Appeals in California robbed children in its nine states and two territories of the privilege of following the tradition in which their parents and grandparents proudly took part.

I am fully aware of the significance of the 1st Amendment's Establishment Clause, and I wholeheartedly believe in its purpose—to prevent establishment of a state-sponsored religion—which was at the heart of our fight for independence against the English crown. However, jurists who interpret this vital clause of the Bill of Rights to prohibit even references to God, as in the Pledge of Allegiance, are way off base. If this decision is allowed to stand, can we next assume the 9th Circuit will require the San Francisco mint to cease producing U.S. currency with the motto, ''In God We Trust?'' Or perhaps, we can look forward to these distinguished jurists prohibiting the singing of our National Anthem at government sponsored events?

The Supreme Court has already established that a person cannot be compelled to recite the Pledge of Allegiance. However, this opinion cites dicta from concurring Supreme Court opinion, which has absolutely no controlling authority, stating that the Pledge of Allegiance, ''constitutes a government endorsement of religion because it sends a message to unbelievers, 'that they are outsiders of the political community, and an accompanying message to adherents that they are insider, favored by the political community.' ''

Nothing could be further from the truth, which is why the Supreme Court has rejected this argument. These ceremonial references to ''God'' neither endorse religion, nor coerce anyone into adhering to a specific religion. The inclusion of phrases like ''Under God'' or ''In God We Trust'' is solely a reference to America's long-standing reverence for our creator, and to the freedom and liberties that have been bestowed upon us.

Thankfully, not all the judges of the 9th Circuit are as irrational as the authors of this opinion. Judge Fernandez, writing in his dissent, stated that, ''what religion clause of the 1st Amendment require is neutrality; that those clauses are, in effect, an early kind of equal protection provision and assure that government will neither discriminate for nor against a religion or religions.'' This rationale is precisely what was intended when the Bill of Rights was adopted and I am confident the full 9th Circuit, or if necessary the Supreme Court, will recognize this on appeal.

This point also underscores the necessity of pushing politics aside and confirming federal judges who understand the Constitution and will use common sense and rationality in reaching decisions.

Mr. Speaker, this is a nation ''under God.'' It always has been. If the Republic is to endure, it must always remain so. I believe that Francis Scott Key stated it best, when he penned our national anthem in 1814, while observing the valiant defense of Fort McHenry:

''Oh! thus be it ever, when freemen shall stand
Between their loved homes and the war's desolation!
Blest with victory and peace, may the heaven-rescued land
Praise the Power that hath made and preserved us a nation.
Then conquer we must, for our cause it is just,
And this be our motto: ''In God is our trust.''

A handful of judges in ivory towers may not understand this; but our Founding Fathers did, and the overwhelming majority of Americans do. I urge you to vote ''aye'' on H. Res. 459.

Mr. TRAFICANT. Mr. Speaker, today, I am deeply saddened to hear that a court in California has ruled that the Pledge of Allegiance is unconstitutional.

After September 11, America turned to prayer. Churches, community groups, colleges, all of America prayed for the victims, their families, and our great Nation. On the sides of buildings and in car windows and even on the roofs of houses the words ''God Bless America'' could be seen in every city and every town across the country. People everywhere donned red white and blue ribbons in support of our military forces and preachers everywhere called our great Nation to prayer. Every morning a moment of silent prayer was offered up for the victims of this great tragedy, wayward souls who had not set foot in a church in years found themselves on their knees praying for America.

And now, now after that great outpouring of faith, a court in San Francisco has decided that the Pledge of Allegiance is unconstitutional because it mentions God. ''One Nation, under God with Liberty and Justice for all.'' Beam me up! I ask, what is next? Will we remove ''In God we Trust'' from our currency and from the House chamber? Will we deny members of Congress the right to recite the Pledge of Allegiance every morning? The courts started their assault on God by banning school prayer. The courts then banned the public display of the Christmas nativity scene. The courts banned students from writing papers about Jesus. Even in my home state of Ohio, the courts have ruled that our state motto ''With God All Things Are Possible'' is unconstitutional! Unbelievable. I am continually amazed at the utter stupidity of the American political system that continues to rationalize, debate, and deny the importance of God and why our founders placed in it our Constitution. The founders never intended to separate God from our schools; the founders simply intended to ensure that there would not be one State-sponsored religion, period. My colleagues know it, I know it, and the American people know it. I think that these judges should be tied to a chain link fence and flogged with a copy of the Constitution! They are so concerned with pleasing the FBI, the CIA, and the IRS so they won't lose their lifetime appointments, that God has become background music in a doctor's office!

I would like to commend my colleagues in both the House and the Senate for supporting God and supporting the Pledge of Allegiance. I also commend our President for taking a strong stand on religion and for fighting for our country's religious freedoms. Freedoms that are taken for granted every single day, but all it takes is one voice. One atheist who does not believe that God has a place in our schools, and those simple freedoms are taken away. I urge this Congress to take whatever steps and means are necessary to invite and allow God back into our schoolrooms.

Mr. GREEN to Texas. Mr. Speaker, today I introduce a constitutional amendment that would protect the rest of the nation from the erroneous and ill-timed decision by the 9th Circuit Court of Appeals that the Pledge of Allegiance violates the First Amendment's stricture against the establishment of a state religion.

The 9th Circuit, while arguing that this ruling is a logical extension of previous United

States Supreme Court decisions, is seeking to protect citizens from the advance of a nonexistent theocracy. Religion and government have existed side-by-side in our nation for over 200 years, and we still have yet to establish an official religion for America.

Writing for the majority, Judge Alfred Goodwin asserts that the ''profession that we are a nation 'under God' is identical * * * to a profession that we are a nation 'under Jesus,' a nation 'under Vishnu,' a nation 'under Zeus,' or a nation 'under no god,' because none of these professions can be neutral with respect to religion.''

I disagree, and echo the thoughts of Judge Ferdinand Fernandez, who contended that there is only a ''minuscule'' risk that the use of the phrase ''under God'' would ''bring about a theocracy or suppress someone's beliefs.'' According to his colleagues, he wrote, '' 'God Bless America' and 'America the Beautiful' will be gone [from public places] for sure, and . . . currency beware!''

Newspapers across the country were quick to respond, with the Lost Angeles Times, the San Francisco Chronicle, The Sun Jose Mercury-News, and The San Diego Union-Journal all attacking the decision of the California-based court. They were not alone, though, as nationally prominent papers known for their dedication to the First Amendment like The New York Times and The Washington Post also weighed in with their criticism of the court.

As for the timing of the issuance of this decision, the 9th Circuit chose a time when our nation is still actively engaged in the war against terror, with our troops still present in Afghanistan, searching for al-Qaeda and Taliban operatives, providing logistical assistance and training to Philippine troops in their pursuit of the al-Qaeda ally organization Abu Sayyaf, and with the wounds of September 11 still fresh in the memory of all Americans.

I ask my colleagues to join me as cosponsors of this important legislation, and I hope that it will receive speedy consideration by this House.

Mr. CRANE. Mr. Speaker, I rise in strong support of this Resolution, which recognizes that the outrageous decision rendered by a three-judge panel in San Francisco yesterday has no basis in law. I am referring, of course, to the Ninth Circuit Court of Appeals decision yesterday to declare the Pledge of Allegiance unconstitutional.

Mr. Speaker, I have read the Court's opinion, which argues that the inclusion of the words ''under God'' in the Pledge of Allegiance violates the religious clauses of the Constitution of the United States. Specifically, we are told it violates the Establishment Clause, which reads as follows: ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.''

Putting the pieces together, this means that the Ninth Circuit has determined that phrases such as ''under God,'' or ''In God We Trust'' tend to establish a religion, or to suppress anyone's exercise of religion.'' This conclusion is absurd on its face.

The phrase ''under God'' when read in the Pledge of Allegiance, acknowledges that our rights are derived from our Creator. That is principle upon which our country was founded. How this qualifies as an attempt to suppress anyone's exercise of religion, or how it tends to establish a religion, I'll never know. And while I will not force anybody to believe what I believe, neither will I sit still while the ability of my fellow citizens to practice religion is trampled upon by a court that failed U.S. history 101.

I am saddened by this ruling, but what is most unfortunate is that I am not surprised by it. I saw this coming from a mile away, Mr. Speaker. It is the logical conclusion to a judicial philosophy promulgated over the past 30 years by the politically correct.

Mr. Speaker, I pray this travesty of justice will wake the Daschle-led Senate up so that they might fulfill their Constitutional obligation and confirm President Bush's nominees.

Mr. CUNNINGHAM. Mr. Speaker, I rise today to join my colleagues in condemning the Ninth Circuit Court's ruling striking down the Pledge of Allegiance as unconstitutional. This decision is unpatriotic—particularly at this time when our nation is at war. We should be embracing symbols of national unity like our pledge of allegiance, but instead the Ninth Circuit Court is attacking them.

The argument against the pledge is above all, unreasonable. By declaring the inclusion of the phrase ''under God'' as unconstitutional, the ruling implies that any mention of ''God'' is equally inappropriate. Remember—the Declaration of Independence and the Constitution refer to ''the Lord'' and ''Creator'', our currency reads ''In God We Trust'', and even the oaths we take as Congressional members speak of ''God''. These references are embedded in the very foundation of our country and national identity—if we stand by and allow this change to the pledge, what will be next? Where do we draw the line?

Mr. Speaker, this court decision will only lessen the already declining respect for our national symbols and for the liberties for which they stand. Yet devaluing an American symbol is unfortunately something that America has been seen before. As you know, in 1989 the US Supreme Court ruled that desecration of an American flag was a permissible and constitutional right. Nevertheless, public disrespect for such a well-known symbol only weakens the sense of a united people. When we do not protect our flag and the god-granted liberties it represents, decisions such as the one declared yesterday will certainly continue.

It is just as essential for Congress to pass House Resolution 459 today as it is to pass the flag burning amendment. We must send a strong message to the courts of America: we value our liberties. We take pride in symbols of national unity. We will fight to protect the pledge and the flag to which we profess our allegiance.

Mr. OXLEY. Mr. Speaker, I stand in strong support of H. Res. 459, which I am proud to cosponsor. I am deeply troubled, but sadly not surprised, that the action of this San Francisco-based court compels us to consider this resolution today.

Mr. Speaker, the Pledge of Allegiance is one of the first things that children learn to recite in school. Adults still place their hands over their hearts when they say it. This simple thirty-one-word affirmation of our great country encompasses the affection and devotion of Americans young and old toward their flag and their nation.

Two years ago, in a court decision equally as absurd as this Newdow decision, a three-judge panel of the Sixth U.S. Circuit Court of Appeals struck down Ohio's official state motto, ''With God All Things Are Possible.'' The Court sided with the American Civil Liberties Union in declaring that the motto expresses a ''particular affinity toward Christianity,'' in violation of the Establishment clause.

Mr. Speaker the Ohio motto decision was ultimately overturned, just as this outrageous decision will be overturned. Our Pledge of Allegiance, along with our Biblically based national motto ''In God We Trust,'' stands as a testament to the undeniable religious foundation of our country. ''In God We Trust'' has been upheld in the courts time and again as a proper reflection of our nation's enduring faith.

It's too often overlooked that the First Amendment's Establishment clause—''Congress shall make no law respecting an establishment of religion''—is followed by the phrase ''or prohibiting the free exercise thereof.'' My constituents are tired of having their free religious exercise attacked by fringe groups in the name of separation of church and state. The Ninth Circuit Court's action is nothing more than political correctness run rampant.

When President Eisenhower approved the addition of the words ''under God'' to the Pledge of Allegiance in 1954, he said, ''In this way we are reaffirming the transcendence of religious faith in America's heritage and future; in this way we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource in peace and war.'' During this time of war, when people across the nation gather in their homes and places of worship to pray for the safety of our men and women in uniform, the Ninth Circuit's assault on our nation's faith-based foundation cannot stand. It flies in the face of common sense, and blatantly ignores a plethora of court precedents.

When we pledge allegiance to our flag, we are not saluting a mere piece of cloth. Our flag is the most visible symbol of our nation—a unifying force in our nation of nearly 300 million. Since the Supreme Court invalidated state flag protection laws in 1989, the legislatures in each of the 50 states have passed resolutions petitioning Congress to propose a flag protection amendment to the Constitution. People across the nation—and across the political spectrum—support the right of everyone to affirm the religious foundation of our country through our Pledge.

My hometown of Findlay, Ohio, is known as Flag City USA. Major downtown thoroughfares are lined with flags in a patriotic salute to the greatness of America. Nearby Arlington, Ohio, which I am also privileged to represent enjoys the designation Flag Village USA. The messages I am receiving from Findlay, Arlington and throughout my district are clear: we are one nation under God, despite this ludicrous court action. I know that my constituents and all Americans are saying the Pledge of Allegiance a little louder and with even more pride.

Mr. KLECZKA. Mr. Speaker, I strongly oppose yesterday's 9th U.S. Circuit Court of Appeals decision holding that the use of ''under God'' in the Pledge of Allegiance is unconstitutional.

The case in question originated from a lawsuit filed by a parent who felt that the use of the phrase ''under God'' impinged on his daughter's First Amendment rights since he

believed that it constituted a sanction of religion in the public school she attends.

This decision was clearly erroneous and I find it abhorrent, as do the vast majority of Americans. It was based upon a total lack of respect if not knowledge of the traditions, the values, and the history of our nation. From the very beginning, as the Declaration of Independence points out, our founding fathers established this land based on the idea that individuals were endowed not by man, but by ''their Creator with certain unalienable Rights.''

The Pledge of Allegiance is a revered expression of patriotism recited by millions of citizens every day. When it is spoken, it instills support for the United States and reflects the love that Americans feel for their country. The Pledge does not violate the separation between church and state since it is not a religious statement, but a verbal expression of Americans' affection for our country.

As the dissenting judge pointed out, similar brief references such as the ''In God We Trust'' that appears on our currency and the opening call of the Supreme Court, ''God save the United States and this honorable court'' have always been accepted. I am hopeful that the 9th Circuit Court as a whole reverses the decision of this three judge panel or that the Supreme Court takes up the case and overturns this badly mistaken ruling.

This morning we were proud to recite the Pledge of Allegiance on the House floor as we do each day. I am a co-author of the resolution before us, H. Res. 459, that expresses the opinion of Congress that the court's judgment was in error. The measure calls for ''under God'' to remain in the Pledge, and for the decision to be reversed. I urge my colleagues to support this measure.

Mr. SHAYS. Mr. Speaker, I rise in strong support of H. Res. 459, Expressing the Sense of the House of Representatives that Newdow v. U.S. Congress was Erroneously Decided.

''One Nation, under God,'' reflects the fact that a belief in God permeated the founding and development of our Nation.

The Pledge of Allegiance is not a prayer of part of a religious service. It is a statement of our commitment as citizens to our great Nation and the role God played in it.

Yesterday, the Ninth U.S. Circuit Court of Appeals confused the issue of separation of church and state with the foundation on which our nation was built. ''We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.'' So reads our Declaration of Independence.

As a new nation we claimed our freedom from any monarch in the Declaration of Independence and inherently in the U.S. Constitution because of ''certain unalienable rights'' guaranteed to us by our Creator.

President Abraham Lincoln, in his second inaugural address, spoke of God 13 times, not in an effort to unite church and state but to unite our Nation at the conclusion of one of the most devastating periods in U.S. history, the War Between the States.

Speaking of the Northern blue and Southern grey, this is what Abraham Lincoln said: ''Both read the same Bible, and pray to the same God; and each invokes his aid against the other. It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces; but let us judge not, that we be not judged. The prayers of both could not be answered—that of neither has been answered fully.''

Abraham Lincoln continued, ''With malice toward none; with charity for all; with firmness in the right as God gives us to see the right.''

Today, we as Americans need to seek the right as God gives us to see this right, and continue to ask God's blessing on our great Nation, whose 226th year of freedom we celebrate next week.

Mr. CHAMBLISS. Mr. Speaker, I rise today in support of House Resolution 459, Expressing the Sense of the House of Representatives that Newdow v. U.S. Congress was Erroneously Decided.

I do this on behalf of all Georgians who share my outrage with the Ninth Circuit ruling that our ''Pledge of Allegiance'' is unconstitutional.

For many years, liberals have been unsuccessful in achieving their objectives through the consent of the governed and have turned to activist judges who are willing to distort the Constitution and erase from all public forums any mention of religion and our country's rich religious heritage. Mr. Speaker, the First Amendment guarantees us freedom of religion.

Is it any wonder that this year alone, the Ninth Circuit Court has been overruled 12 times by the Supreme Court. But in a larger sense, this ruling is further evidence that our nation is facing a judicial crisis. Liberal special interests are working tirelessly to prohibit the confirmation of President Bush's judicial nominees in order to further pack the courts with liberal judges who will promote their liberal agenda thus guaranteeing that ruling such as this will become the norm.

Mr. Speaker, I urge my colleagues to pass this resolution, I urge the Department of Justice to immediately appeal this decision and work to have it overturned. I urge confirmation of the President's judicial nominees. To date, only 28% of the President's circuit court nominees have been confirmed. The ruling yesterday in San Francisco demonstrates that the time has run out for holding up the President's nominees. We need the President's judges. We need them now.

Mr. UDALL of Colorado. Mr. Speaker, I support this resolution—not because I necessarily agree that the recent decisions it addresses is ''inconsistent with the U.S. Supreme Court's First Amendment jurisprudence'' as the resolution says, but because I do agree that ''the Ninth Circuit Court of Appeals should agree to rehear'' the matter.

I am not a lawyer, and have not had a chance to carefully review the decision. So, I am not prepared to conclude that its author—a long-serving judge originally appointed by President Nixon—was clearly wrong as a matter of law. However, it is my understanding that another appeals court, in a similar case, has ruled differently. So, I definitely think the issue needs to be resolved, either through reconsideration or by the Supreme Court.

I also strongly agree with the part of the resolution which states that ''the United States Congress recognizes the right of those who do not share the beliefs expressed in the Pledge to refrain from its recitation.''

I am proud to recite the Pledge of Allegiance because I personally agree that, as the resolution states, ''the Pledge of Allegiance is not a prayer or a religious practice'' and its recitation ''is not a religious exercise'' but instead ''the verbal expression of support for the United States of America.'' However, I think it is not a good idea for the Congress to attempt to define what constitutes a religious practice or a prayer. So, I am uncomfortable with the parts of the resolution dealing with those points. The resolution is only an expression of opinion, of course, but still I would have preferred if those clauses had been omitted.

Similarly, I am not sure it is correct to say, as the resolution does, that the court's decision ''treats any religious reference as inherently evil and is an attempt to remove such references from the public arena.'' That seems to me to be a bit of a stretch, especially since under our legal system the courts rule only on cases brought to them, and—unlike the political branches of the government—do not have complete control over their agenda.

On balance, however, and for the reasons I have outlined, I am generally in agreement with the resolution, and so I will vote for it.

Mr. CRENSHAW. Mr. Speaker, yesterday, the Ninth Circuit Court of Appeals held that the Pledge of Allegiance is an unconstitutional endorsement of religion. The Court stated that the Pledge ''impermissibly takes a position with respect to the purely religious question of the existence and identity of God.'' Furthermore, the Court concluded that the Pledge places children in the ''untenable position of choosing between participating in an exercise with religious content or protesting.''

I vehemently disagree with the Court and rise in strong support of H. Res. 459, a resolution expressing the sense of the House of Representatives that this case was erroneously decided. The Court's ruling is contrary to the vast weight of Supreme Court authority recognizing that the mere mention of God in a public setting is not contrary to any reasonable reading of the First Amendment.

The Pledge of Allegiance is not a religious service or a prayer, but it is a statement of historical beliefs. The Pledge represents everything that unites us. It is a reminder of the ideals that we all share—patriotism, loyalty, and love of country. While I firmly believe in the separation of church and state, I also believe that the Constitution was not designed to drive religious expression out of public sight.

Our people are part of a culture where many believe in God and value the fact that religion played an important role in the founding of this great nation. The United States Ninth Circuit Court of Appeals is firmly out of touch with what is good and right in America and with the vast majority of this country's people and I trust that this fundamentally flawed decision will be quickly overturned.

Mr. Speaker, it is with great pride that I added my name as a cosponsor to this resolution and I urge my colleagues to join me and send a strong message to all Americans that they should be proud of the religious heritage of America by supporting H. Res. 459.

Mr. TERRY. Mr. Speaker, I rise in support of H. Res. 459 to firmly denounce yesterday's outrageous court ruling that the Pledge of Allegiance ''is an unconstitutional endorsement of religion and cannot be recited in schools.''

The Pledge of Allegiance is an American tradition that instills patriotism, gratitude, and respect in our children. Many of us grew up pledging allegiance to the flag each morning in

our school rooms—an honor I want my children to experience. Many of us also have family and friends who fought in foreign wars under the red, white, and blue of Old Glory. The Pledge of Allegiance affirms the strength, unity, sacrifice, and a commitment symbolized by the flag under which they fought and bled.

The late Red Skelton ended his now-famous patriotic commentary on the Pledge of Allegiance by saying ''since I was a small boy, two states have been added to our country, and two words have been added to the Pledge of Allegiance: Under God. Wouldn't it be a pity if someone said that is a prayer, and that would be eliminated from schools, too?'' If allowed to stand, the Ninth Circuit Court of Appeals' ruling would make this fear a reality. Generations of school children would be denied their right as Americans to publicly express gratitude to those who aided to secure the blessings of freedom.

We were all inspired by the firemen who risked their lives to stand atop the smoking, 70-story debris of the World Trade Towers to unfurl the American flag and recite the Pledge of Allegiance in its honor. In the face of such selfless bravery, it is more evident than ever that we are indeed a nation ''under God.''

The First Amendment to the United States Constitution affirms that ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .'' Our nation's founding fathers sought to ensure freedom of religion, not freedom from religion, as the two Ninth Circuit Federal judges have erroneously and dangerously concluded. I agree with the dissenting Judge Fernandez, who wrote that ''such phrases as 'in God we trust,' or 'under God,' have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion,'' except in the eyes of those who ''most fervently would like to drive all tincture of religion out of the public life.''

I urge my colleagues to join me in supporting H. Res. 459 to ensure that generations of children can pledge allegiance to our flag and understand the sacrifices, values, and patriotism that have made our country great.

Mr. CASTLE. Mr. Speaker, I rise today in strong support of H. Res 459 expressing the Sense of the House of Representatives that the 9th Circuit court of Appeals exercised poor judgment in deciding 2 to 1 that the phrase ''under God'' in the Pledge of Allegiance violated the Establishment Clause of the First Amendment. Today, the House of Representatives joins the Senator, which voted unanimously, to object publicly to this decision.

Because our Constitution only grants the Supreme Court the power to make a final interpretation of the Constitution, Congress cannot overturn this decision. However, it is entirely appropriate for Congress to express its collective opinion about this 9th Circuit decision. I hope the Supreme Court is listening as it will likely hear the appeal on this case.

The Pledge of Allegiance is not a prayer. It is an expression of support for our nation just as ''In God We Trust'' is on our currency or singing the song ''God Bless America.'' These phrases are a form of ceremonial deism, not an establishment of religion. Anyone who thinks the Pledge of Allegiance will lead us to abandon democracy and establish a theocracy is wrong. I hope they will come to realize that attempt to extinguish the phrase ''God'' from the public forum is really an attempt to extinguish an important element of our nation history.

Finally, it is worthwhile to note that the important principle of separation of church and state is already preserved. Under current law, student are not required to recite the Pledge of Allegiance. It is part of their freedom of speech to refrain from recruiting it. Lets not forget that it is also the freedom of speech of other students to recite the Pledge of Allegiance. I respect that the Supreme Court will ultimately make its own independent judgment. However, I sincerely hope that it will reverse the 9th Circuit decision.

Mr. CARDIN. Mr. Speaker, I rise today in strong support of H. Res. 459, expressing the sense of the House of Representatives that the decision of the U.S. Court of Appeals for the Ninth Circuit in the case of Newdow v. U.S. Congress was wrongly decided. I believe that students should be able to continue to recite the full Pledge of Allegiance, including the phrase ''under God,'' if they so chose, as the Pledge is a central part of the heritage of the United States.

Mr. Speaker, the day after the terrorist attacks of September 11, 2001, I took the floor of the House to remind members about the history and importance of our flag to the United States. On September 12, 2001, I stated:

> Mr. Speaker, it was 187 years ago this very evening that in Baltimore, Maryland, at Fort McHenry, this Nation, this young Nation, won its second war of independence. It was the beginning of the end of the War of 1812. Francis Scott Key on this very evening 187 years ago wrote his inspirational poem that became our National Anthem.
>
> In that third verse, he wrote some words that are helpful for us this evening:
>
> From the terror of flight or the gloom of the grave.
> And the Star-Spangled Banner in triumph doth wave.
>
> We survived the attack by a hostile power and became the strongest Nation in the world, and we will survive this attack on our democratic principles, and we will grow even stronger.

Mr. Speaker, the Pledge of Allegiance is a simple, eloquent statement of American values. For more than four decades, school children have recited it in classrooms across the country. Students pledge allegiance not only to the flag, but to the nation and our values and principles.

I was heartened to see Americans all across our great nation pause for the Pledge on June 14, Flag Day. The Supreme Court, Mr. Speaker, regularly opens its proceedings with the injunction ''God save the United States and this Honorable Court.'' Congress opens its business for the day with a prayer and the Pledge of Allegiance, as do many of our state legislatures. We should continue this fine tradition in our public institutions of government, as well as our schools.

At this most trying time for our nation, when American values and our democracy are under attack from terrorist both at home and abroad. Congress should send a clear message to the nation that we believe the Pledge of Allegiance continues to unite us.

Mr. Speaker, I urge passage of this resolution.

Mrs. ROUKEMA. Mr. Speaker, I am shocked and appalled by the U.S. Court of Appeals for the Ninth Circuit's ruling of the Pledge of Allegiance as unconstitutional. This outrageous decision allows a tiny minority to impose its atheistic views on the vast majority of Americans of all faiths. At the same time, it has no legal foundation.

The Pledge of Allegiance is based on the same fundamental legal principles that established our Nation under the Constitution.

This nation has experienced a tremendous rise in patriotism and we continue to take every opportunity to express our pride in this country. Yet we have now been told that the Pledge of Allegiance is a biased statement and an injury to hear that we are ''one Nation, under God.'' How ridiculous!

I am strongly opposed to this court decision and urge all Americans to join me in expressing contempt for this ruling.

This case must be appealed to the U.S. Supreme Court in an expedited fashion.

Mr. OTTER. Mr. Speaker, today I rise in support of the resolution introduced by my colleague, representative BOB RILEY opposing the ruling of the 9th circuit court that the Pledge of Allegiance is unconstitutional. This is just the kind of ridiculous decision we in the West have come to expect from the 9th Circuit. In an attempt to impose political correctness on society at the expense of freedom, these judges have ignored the real intent of the framers of the Constitution. The First Amendment says nothing about separating church and state. What it does is prohibit the government from establishing a state religion or laws prohibiting free exercise of religion. What's next? Are they going to declare U.S. currency unconstitutional because it bears the words ''In God We Trust?'' Religious freedom is the one common unifying quality that makes us a peace loving, God-fearing nation. We are all Americans, and the Pledge of Allegiance stands as a testament to the citizens of this Nation, and their commitment to each other as Americans.

Mr. SMITH of Texas. Mr. Speaker, the Ninth Circuit Court of Appeals ruling yesterday treats the reference of God as one would treat profanity. Religious references in public discourse are wrongly under attack.

The Constitution guarantees us that government will not 'establish' a religion, but it also provides every American—even students—the right to freely express their views. We are 'one nation under God' and we have the right to say it.

I urge my colleagues to support this resolution.

Mr. HORN. Mr. Speaker, yesterday, the Ninth U.S. Circuit Court of Appeals ruled in a 2–1 decision that the words ''under God'' as recited in the Pledge of Allegiance were unconstitutional. The case was brought before the panel of three judges by Michael A. Newdow, a self-described atheist who protested the requirement of the pledge at his second-grader's school in the Elk Grove Unified School District in Sacramento, California. His case had previously been dismissed by the U.S. District Court.

Writing for the majority, Judge Alfred T. Goodwin found that Newdow had standing as a parent to ''challenge a practice that interferes with his right to direct the religious education of his daughter.'' Following the precedent establish by the Supreme Court in related school prayer cases, the Court ultimately decided that the 1954 Act, which placed the

words ''under God'' in the Pledge was unconstitutional because it violated the Establishment Clause of the First Amendment. The ruling will affect nine states in the western United States: Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington.

This decision will not be implemented for several months, and an appeal to the Supreme Court will likely be the next step. I urge Attorney General Ashcroft to take steps to begin these proceedings as soon as possible.

Congress already is protesting this decision as well. The day the decision was announced, members of the House of Representatives gathered on the steps of the Capitol building and proudly recited that Pledge of Allegiance. In addition, on Thursday, June 27, H. Res. 459 was introduced on the House floor. This legislation expresses the view of Congress that Newdow v. U.S. Congress was erroneously decided. If necessary, I would support a constitutional amendment protecting the right to recite the pledge in schools and other public settings.

As cited in H. Res. 459, the Pledge of Alliance, including the phrase ''One Nation, under God,'' reflects the historical fact that a belief in God permeated the founding and development of our Nation. This is evident in many other cultural elements, including our currency and many patriotic songs, such as ''God Bless America.'' In this time of uncertainty, it is important to remember and uphold the symbols of our Nation, which honor our heritage and draw us together as one people.

Mr. GILMAN. Mr. Speaker, I rise in response to the U.S. 9th Circuit Court of Appeals' declaration that the Pledge of Allegiance is unconstitutional because it contains the words ''under God'' which were added by Congress in 1954.

The Federal Court's decision is an insult to our Nation and a disgrace and an absurdity of justice. It is an obvious misinterpretation of the Constitution, one which violates the basic principles of reason and good judgment.

The ruling, if allowed to stand, means schoolchildren in the nine western states covered by the Court (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington) can no longer recite the Pledge.

Accordingly, I urge the Attorney General to expeditiously appeal this decision to the Supreme Court. Each day that this unbelievable finding stands is another day that the Federal judiciary should hide its head in embarrassment.

Mr. SIMPSON. Mr. Speaker, I rise today to condemn the absurd logic of the Ninth Circuit Court of Appeals in its decision regarding the Pledge of Allegiance and renew my call for much needed reform to stop the unchecked abuses of this court.

We in the West have long known the Ninth Circuit is a court out of touch with reality. Yesterday's ruling, however, marks a new low for this court and is an affront to the principles on which our nation was founded.

The Ninth Circuit, without question, is the most overturned appeals court in the nation. The 1996–1997 session alone saw 95 percent of its cases reviewed by the Supreme Court overturned—and the wholesale rejection of this court's decision continues to this day.

I call upon my colleagues in the House to support legislation I put forward last year that would split the Ninth Circuit into two courts and put an end to this cycle of wasteful and irresponsible rulings. My constituents deserve better, the people of the nation deserve better, and the constitution deserves better.

Mr. Speaker, yesterday the 9th Circuit Court of Appeals ruled that the Pledge of Allegiance is unconstitutional. This is an outrage to me, to Congress, to the man on the street, and to the children who will be told they can no longer say the pledge in school! I am livid over the court's brainless decision. I pledge to support every effort to overturn this horrible decision.

The court's decision stating that the words ''under God'' amounts to a government endorsement of religion shows just how out of step these liberal judges are with the American people. They state that saying God is akin to saying Jesus, Vishnu, or Zeus. This is blatantly nearsighted because the term God refers to God in the concept that is personal to every single person and does not refer to any certain idea of deity. Furthermore, the Pledge of Allegiance is not a prayer or a religious practice and thus the recitation of the pledge is not a religious exercise but rather it is an expression of support and loyalty for the United States. In Justice Brennan's concurring opinion in School District of Abington Township v. Schempp, 374 U.S. 203, 304 (1963) he stated, ''the reference to divinity in the revised pledge of allegiance . . . may merely recognize the historical fact that our Nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact.'' And Justice Blackmun writing for the Court in County of Allegheny v. American Civil Liberties Union Greater Pittsburgh Chapter, 109 S. Ct. 3086, 3106 (1989) stated. ''Our previous opinions have considered in dicta the motto and the Pledge characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief.''

Even before Congress added ''under God'' in 1954 to the pledge, the Supreme Court had ruled no one could be forced to recite the pledge. The court's decision yesterday said simply having to hear it every day violates the First Amendment ban on the establishment of religion. However, as Judge Fernandez points out in his dissenting opinion, ''in West Virginia Board of Education v. Barnette the Supreme Court did not say that the Pledge could not be recited in the presence of Jehovah's Witness children; it merely said that they did not have to recite it. That fully protected their constitutional rights by precluding the government from trenching upon 'the sphere of intellect and spirit. As the Court pointed out, their religiously based refusal' to participate in the ceremony would not interfere with or deny rights of others to do so.''

Essentially this court has with this opinion developed the idea of a coercive environment. However, the law doesn't normally condition ones behavior on how it will affect others around them. Instead, we are told to avert our eyes and turn our heads away from something we find objectionable. In Cohen v. California, the Court found that epithets on the back of a war protestor's jacket, worn in public places, was constitutionally protected speech—the rights of unwilling viewers do not outweigh the speaker's. With this decision, the court gives any statement which may appear to be religious, no matter how innocuous, less protection than any other speech. Religion should be a more highly protected value, not a less protected value. At the very least it deserves equal protection.

If this case is allowed to stand what will be next? Our national motto ''In God We Trust'' which is emblazoned on our money and above the Speaker of the House's chair? Or the singing of songs such as ''God Bless America'' or ''America the Beautiful'' in public? Or how about congressional prayers or the president's periodic invocation of the deity? Or maybe even the crosses at Arlington National Cemetery and our national military cemeteries across the country?

The Pledge, like the National Anthem, is one of few remaining vestiges of the old idea of civic inculcation. It reminds us that despite the fact that we are all from diverse ethnic, religious, and racial backgrounds we remain a part of the same republic. The key to our unity is a shared commitment to the republican ideas of liberty and justice. The sanctioning of our oath under God is not merely an assertion of religious belief, but an appeal for divine blessing of this rather strange and mysterious grand experiment. Out Pledge, National Anthem, national motto and civic prayers help remind our citizens that there are more spiritual ties that bind us than natural affinities that divide us.

Mr. NETHERCUTT. Mr. Speaker, I rise in support of House Resolution 459, to express the sense of Congress that the decision made in Newdow v. U.S. Congress was erroneous.

Yesterday, the Ninth Circuit Court of Appeals, the Federal Court that has jurisdiction over my constituents in Eastern Washington, ruled that our nation's Pledge of Allegiance is unconstitutional. The Ninth Circuit has a long history of bad rulings, and has had more decisions overturned by the Supreme Court than any other circuit. This decision once again proves that the Ninth Circuit needs a commonsense judge from the Eastern District of Washington to bring a voice of reason to the federal appellate bench.

The Pledge of Allegiance, recited by Americans of every age, is an affirmation of our principles of democracy, justice and individual liberty. The declaration of our being ''one nation under God'' is at the heart and soul of America and her distinguished history.

This case and decision should serve as a strong reminder to the U.S. Senate that it should fulfill its responsibilities to confirm President Bush's judicial nominees.

Mr. Speaker, the ruling in Newdow v. U.S. Congress eliminates a constitutionally protected ''genuine choice'' by disallowing students across the Nation from proclaiming their love for these United States through the Pledge of Allegiance. To do so is wrong. We must encourage our Nation's youth to believe in whatever religion they choose, for those beliefs set guiding principles that turn our youth into the outstanding leaders of tomorrow.

Mr. UNDERWOOD. Mr. Speaker, I rise today in support of House Resolution 459 expressing the sense of the House of Representatives that the court ruling in Newdow v. U.S. Congress as erroneously decided. By supporting this resolution we recognize the meaning of the Pledge of Allegiance and embrace the significance of its recitation by our nation's schoolchildren.

Since arriving in Congress in 1993, I have had the privilege of leading this House in the

Pledge of Allegiance several times upon convening at the beginning of the day. It is an honor to express my support for the principles and ideals of freedom, democracy, liberty and justice, the very foundation of this great nation, the nation that our flag and pledge celebrates.

The ruling by the U.S. Court of Appeals for the 9th Circuit in this case is unfortunate in that it fails to recognize the meaning that the Pledge of Allegiance has in our lives, its purpose in protection the principles of our democracy, and its remembering of the sacrifice made by our nation's veterans in defense of this nation and in support of all for which we stand and in which we believe.

Under the logic of this ruling the people of Guam won't be able to sing the Guam Hymn. Our hymn, which is sung daily in Guam's schools not only acknowledges God, it asks for His protection as in 'Yu'os prutehi islan Guam.

For our elders, for our children, and for generations to come, may the pledge continue to stand strong for all Americans and may it remain the words by which we pledge allegiance to the ideals of liberty and justice for all and recognize that we are indeed one nation, under God.

Mr. BLUMENAUER. Mr. Speaker, at a time when meaningful debate is at a minimum in this Congress, it is embarrassing that this resolution has been brought to the floor in this manner. Issues of great consequence to this nation, like reducing prescription drug costs, protecting investors and ensuring corporate accountability, and producing a budget that allows us to meet our military needs and protect Social Security, are being short-changed.

The Ninth Circuit Court of Appeals decided yesterday the case of Newdow v. U.S. Congress on the Pledge of Allegiance. One day later, we by-pass the committee process and rush this resolution to the floor. In my personal opinion, the Court's decision is an over-reaction to language that has been part of the civic and governmental life of the United States since this nation's founding. Every American responds in our own ways to the invocation of God on our currency, in solemn oaths and other customary circumstances. Our individual liberties have not been threatened by these expressions, including the words ''under God'' in the Pledge of Allegiance. However, I would hope we would allow this decision to work its way through the judicial process rather than engage in political grandstanding.

I refuse to dignify this trivialization of the legislative process and I vote ''present.''

Mr. POMEROY. Mr. Speaker, I am pleased to state my strong support for H. Res. 459. Yesterday, a three-judge panel of the U.S. Court of Appeals for the 9th Circuit ruled 2 to 1 that the Pledge of Allegiance is unconstitutional because it describes the United States as ''one Nation, under God.'' This decision is absurd, and it flies in the face of reason and a 7th Circuit decision upholding the Pledge.

Immediate action must be taken against the court's latest decision. I call upon the Administration to ask the full 9th Circuit to reconsider the case or take the matter directly to the Supreme Court. The phrase ''under God'' was added to the Pledge at the height of the Cold War. The American values in force when this phrase was added are still shared today, as we rebuild as a nation from the tragedy that impacted our lives on September 11, 2002. That is why I stand in support of House Resolution 459.

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

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 459.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 416, nays 3, answered ''present'' 11, not voting 5, as follows:

[Roll No. 273]

YEAS—416

Abercrombie
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
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
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Honda
Scott
Stark

ANSWERED ''PRESENT''—11

Ackerman
Blumenauer
Capuano
Frank
Gutierrez
Hastings (FL)
McDermott
Nadler
Oberstar
Velazquez
Watt (NC)

NOT VOTING—5

Berman
Greenwood
LaFalce
Roukema
Traficant

□ 1616

Mr. GUTIERREZ changed his vote from ''yea'' to ''present.''

Mr. NADLER and Mr. McDERMOTT changed their vote from ''nay'' to ''present.''

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GREENWOOD. Mr. Speaker, on rollcall No. 273 I was unavoidably detained by duties related to my investigation of Worldcom in a interview room without audible vote notification bells. Had I been present, I would have voted ''yea.''

PROVIDING FOR CONSIDERATION OF H.R. 5011, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2003

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 462 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 462

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. 5011) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, 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 Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions of the bill for failure to comply with clause 2 of rule XXI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. 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. 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.

SEC. 2. House Resolution 421 is laid on the table.

The SPEAKER pro tempore (Mr. ISAKSON). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. McGOVERN), and I believe this is the first time we have done a rule together, welcome, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

On Wednesday, the Committee on Rules met and granted an open rule for the Military Construction Appropriations Act for the fiscal year 2003. H.R. 5011 recognizes the dedication and commitment of our troops by providing for their most basic needs, improved military facilities, including housing and medical.

Mr. Speaker, we must honor the most basic commitments we have made to the men and women of our Armed Forces. We must ensure reasonable quality of life to recruit and retain the best and the brightest to America's fighting forces. Most importantly, we must do all in our power to ensure a strong, able, dedicated American military, so that this Nation will be ever vigilant and ever prepared.

H.R. 5011 provides nearly $1.2 billion for barracks and $151 million for hospital and medical facilities for troops and their families. It also provides $2.9 billion to operate and maintain existing housing units and $1.3 billion for new housing units.

Military families also have a tremendous need for quality child care, especially single parents and families in which one or both parents may face lengthy deployments. To help meet this need, the bill provides $18 million for child development centers.

Mr. Speaker, this is a fair and an open rule for consideration of the fiscal year 2003 military construction appropriations bill. I urge my colleagues to support the rule and the underlying bill.

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

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me the customary 30 minutes.

Mr. Speaker, we have before us a fair and open rule for H.R. 5011, the military construction appropriations for fiscal year 2003. The rule provides for 1 hour of general debate, waives all points of order against consideration of the bill, allows for all germane amendments to be offered with priority accorded to those preprinted in the CONGRESSIONAL RECORD, and provides for one motion to recommit with or without instructions.

This is a fair rule, and I urge my colleagues to vote for it.

I would like to express my appreciation for the work of the gentleman from Ohio (Mr. HOBSON), the chairman, and the gentleman from Massachusetts (Mr. OLVER), the ranking member of the Subcommittee on Military Construction, along with the gentleman from Florida (Mr. YOUNG), the Committee on Appropriations chairman, and the gentleman from Wisconsin (Mr. OBEY), the ranking member, for continuing the tradition of strong bipartisan support in the drafting of the military construction appropriations bill.

This is a very difficult year for the Committee on Appropriations, and I commend the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER) for bringing to this House a very fine bill, given the limited amount of funds allocated for military construction needs.

Mr. Speaker, the President's fiscal year 2003 request for military construction was $1.6 billion, or 15 percent below the fiscal year 2002 enacted levels. However, included in the defense emergency response fund as part of the defense appropriations bill was approximately $594 million worth of military construction projects. These projects were subsequently transferred over to the jurisdiction of the military construction request, resulting in the bill before us today. This combined request for military construction, therefore, now contains $542 million more than the President requested but still remains $522 million below last year's enacted levels.

Mr. Speaker, I believe it is incumbent upon all of us, the administration and Congress alike, to ensure that our forces have appropriate operational and training facilities, maintenance and production facilities, and research and development facilities. Yet each of these categories face significant reductions in funding in this bill.

According to the Pentagon, 68 percent of the Department's facilities have serious deficiencies that might impede mission readiness or they are so deteriorated that they cannot support mission requirements. The current reductions in funding for construction in these facility categories mean that the rates at which buildings are renovated or replaced has just increased from 83 years to 150 years.

Mr. Speaker, I keep hearing that we are engaged in a long-term struggle against a global enemy. So I find it difficult to believe that while we can find the funds to increase the defense budget by $48 billion, we cannot find the funds to bring our operational facilities up to standard.

Mr. Speaker, I firmly believe that our uniformed men and women and their families deserve decent housing and accommodations, both here at home and abroad. We need to ensure that all personnel in all branches of service have a quality place to live and work, both at home and abroad; and I commend the committee for continuing to provide increased funding for dormitories in overseas construction; but again, through no fault of the committee, the funding provided does not come near to meeting the need. According to the Department of Defense, 180,000 of the 300,000 units of military housing are substandard. Mr. Speaker, this is a national scandal.

We also need to ensure that security is improved around all our military bases, installations and other sites both in the United States, its territories and abroad. I know that this is a

matter of deep concern for both the chairman and the ranking member. In last year's emergency supplemental in response to September 11 and in this bill, we have made progress in this area; but again, much more needs to be done and done quickly.

This is not the first time that this committee has lamented the shortfalls in funding for basic military construction priorities, but we now live in a changed world, Mr. Speaker. Poor facility conditions are not only unsafe, they hamper readiness and decrease troop retention. The events of September 11 require both the administration and the Congress to provide significantly greater funds for these purposes.

Clearly, the President's request for fiscal year 2003 was inadequate. Clearly, the committee has done as fine a job as anyone could in bringing forward a bill worthy of bipartisan support; but clearly, this Congress, in a bipartisan manner, must bring this urgent matter to the attention of the White House so that the next budget does not continue to ignore these significant national security needs. I know I speak for all my colleagues when I pledge that I will be happy to work with the chairman and the ranking member on any such initiative.

Mr. Speaker, I urge adoption of this rule and this bill.

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

Mrs. MYRICK. Mr. Speaker, I am pleased to yield as much time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me the time, and I would like to first congratulate her on her very strong commitment to our Nation's military and also for her ascension to the chairmanship of the very important Republican Study Committee, which is an entity within the Republican Conference that spends a great deal of time focused on the national security of the United States of America, and I believe she will provide stellar leadership there.

Mr. Speaker, this is a very important measure. I had a lengthy conversation this morning with the gentleman from Pennsylvania (Mr. MURTHA), the ranking minority member of the Subcommittee on Defense, Committee on Appropriations; and we were talking about our Nation's military forces, and we were reminded of the fact that we have an all-volunteer Army, all-volunteer military. And in light of that, it is very important for the United States Congress to provide the resources that will ensure that we attract the most capable individuals to serve in the military. It seems to me that one of the most important things for us to do is to make sure that in the area of military construction that we do just that.

I would like to join in congratulating my good friends, the gentleman from Florida (Mr. YOUNG), the gentleman from Wisconsin (Mr. OBEY), and the leadership of this subcommittee, the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER), for their strong leadership and dedication to this shared goal.

I appreciate the gentleman from Massachusetts' (Mr. MCGOVERN) comment about the fact that we continue to pursue this in a bipartisan way, and it is good to see this bipartisan sense here in this institution as we look at this important issue.

The numbers were outlined very well by our colleague from North Carolina. One issue that was not mentioned was the fact that there are resources in here to deal specifically with counterterrorism, and I saw that there is roughly $582 million to deal specifically with that question, to ensure that as we proceed with military construction, that the safety and security of the men and women in uniform, as well as those families of theirs, are addressed.

So I believe that we have got a good measure here that is going to be brought forth under an open amendment process that will allow for the consideration of different ideas; but the fact that we have come together with strong agreement from both Democrats and Republicans is I think a great testimony to the success of the work of the Committee on Appropriations.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. OLVER), who is the ranking Democrat on the Subcommittee on Military Construction of the Committee on Appropriations.

Mr. OLVER. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me time.

Mr. Speaker, I rise this afternoon to support this open rule for the consideration of the military construction appropriations bill. Because of the leadership of the gentleman from Ohio (Mr. HOBSON), the chairman of this subcommittee, the underlying bill is a good bill developed in a bipartisan way, as he has always done in the years that he and I have served together in the positions of Chair and ranking member, respectively, of the committee; and I urge the Members to support this rule.

□ 1630

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to my friend and neighbor, the gentleman from North Carolina (Mr. HAYES).

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

Mr. HAYES. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, today I rise in support of the rule, but first let me pay particular tribute to the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER), chairman and ranking member, who have a keen awareness of the need for the best of military housing and also an aggressive posture towards pursuing and solving the problems that we have faced in the past, and I appreciate their support for that.

I rise in strong support of the rule that will allow for consideration of H.R. 5011, the Military Construction Appropriations bill for 2003. This bill provides over $10 billion for military construction projects. Providing adequate housing and facilities for our men and women in uniform enables them to better do their job. Having safe and secure housing allows servicemen and women to know that their families are out of harm's way while they are deployed or serving our country overseas. This assurance is a key component of our Nation's military readiness, and today we take steps to further improve and also to modernize the housing and facilities for our military families.

Mr. Speaker, I would like to highlight a significant component of the MILCON Appropriations bill which will help all soldiers at Fort Bragg, North Carolina. Since I came to Congress, I have been working to secure funds for the Soldier Support Center at Fort Bragg. This center, to be named in honor of General Hugh Shelton, currently recovering from a spinal cord injury, will provide a one-stop in-and-out-processing facility for soldiers at Fort Bragg. Today we take the first step in providing the first half of the funding for this important resource for the epicenter of the universe, Fort Bragg, North Carolina.

Mr. Speaker, in addition to providing funds for MILCON, I would also like to take this opportunity to highlight some of the innovative projects to leverage private capital that individual services are currently pursuing. At Fort Bragg in my district in North Carolina, the Army is getting under way with a project called Residential Community Initiative, or RCI. Through RCI, the Army has decided upon a private contractor to build several thousand homes on post and to renovate many, many others. This contractor was awarded a 50-year, multi-million dollar contract and will be responsible for the homes for the next 50 years. I am hopeful that this will create both improved housing for our soldiers and their families but also generate many economic opportunities for the greater Fayetteville community. This innovative way to use private capital to fix some of our most serious family housing problems will provide the best housing for our soldier, the best value for the taxpayer, and maximum benefit for our community.

The tragic events of September 11, 2001, have thrust our Nation's military into the spotlight and called to duty the brave men and women of the U.S. Armed Forces. Once again, U.S. citizens are rallying behind them in strong support of the harrowing mission that they have been called upon to perform. Our U.S. Congress has the duty and the

opportunity to pass the Military Construction Appropriations bill for 2003. Please join me in supporting this rule that enables us to provide the necessary facilities and security for these brave men and women who are protecting us and our country and our freedom. We are ever grateful.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from Massachusetts (Mr. MCGOVERN) for yielding me this time, and I want to urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I take this time to congratulate the gentleman from Massachusetts (Mr. OLVER) and the gentleman from Ohio (Mr. HOBSON) on a very fine Military Construction bill. I particularly want to thank the gentleman from Ohio (Mr. HOBSON) for his help in regards to a facility at the Naval Academy, that he has been very helpful in the new ethics center that will be constructed at the United States Naval Academy.

Eight years ago a private fund-raising group began working with the Naval Academy and the Academy's Foundation to build a new ethics center and Jewish Chapel in Annapolis. While the Jewish Chapel facility will be entirely funded and endowed privately, the subcommittee's action reflects the fact that a significant portion of this new center will be used for an ethics center and a general Academy classroom, office, and common space.

Mr. Speaker, this will be a tremendous addition to the Naval Academy in Annapolis. It would not have been possible without the help of the gentleman from Ohio (Mr. HOBSON). I really want to take this time to thank him for his efforts on this behalf.

Mrs. MYRICK. Mr. Speaker, may I inquire how much time we have remaining on this side, please?

The SPEAKER pro tempore (Mr. ISAKSON). The gentlewoman from North Carolina has 21½ minutes, and the gentleman from Massachusetts (Mr. MCGOVERN) has 23 minutes.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), the distinguished chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me this time on this very important rule on this very important bill. As she has pointed out, this is an open rule; and I would say to my colleagues, Mr. Speaker, that since I became chairman of this committee, I have never, ever asked for anything other than an open rule so that Members would have an opportunity to be part of the appropriations process. So this is an open rule as we always ask for on all bills.

I had asked the gentleman from California (Mr. LEWIS), I wanted to make a few comments not only on the rule but on the bill, the defense bill that we moved earlier today under the gentleman from California (Mr. LEWIS) and the bill we moved this afternoon under the gentleman from Ohio (Mr. HOBSON), chairman, and the gentleman from Massachusetts (Mr. OLVER), ranking minority member, both very good bills. We had made a commitment to move the defense bill first. We have now done that. We now will be moving the Military Construction bill.

We are keeping our commitment on schedule, and so I wanted to take just a few minutes, besides mentioning the open rule, to mention the fact that this bill goes directly to the quality of life for America's men and women who serve in uniform. A lot of the money in this bill goes for housing for those who serve in the military.

I would suggest to my colleagues, Mr. Speaker, that if they ever have an extra couple of hours, they might want to visit some military bases and look firsthand at some of the housing and where our troops are quartered; and I think they would come back here demanding even more money than this bill provides to provide decent housing for the military in those cases where the housing really is not all that good.

I think if one of us took our kids to a college or a university and we saw housing like some of our military live in, we would put them back in the car and take them back home. We would not let them live like we are requiring some of our military to live. So this bill goes a long way towards solving that problem.

But I must point out that there is a much longer way to go. There is still a lot of work that needs to be done.

I want to compliment again the gentleman from Ohio (Mr. HOBSON) for the good work in producing this bill in a bipartisan fashion, along with the gentleman from Massachusetts (Mr. OLVER). They have done a really good job. I do not think there is any controversy to this bill whatsoever, and it should move quickly.

I just want to point out also that, on the defense bill that I did not speak on earlier today, trying to save time, that the staff and the chairman and the ranking member and the members of that subcommittee worked long, hard hours, days, nights. Oftentimes we hear that about the staff. But in the case of the chairman, the gentleman from California (Mr. LEWIS), he was here on weekends, late at night; and he was here every step of the way. That is why the bill he produced, along with the gentleman from Pennsylvania (Mr. MURTHA), was such a good bill. It was really well-thought-out, and it does a good job for our Nation's defense.

So, Mr. Speaker, I am proud to be supportive of this rule; and I am very proud to be supportive of this good bill that adds considerably to the quality of life for our men and women who serve in our uniform.

Mr. Speaker, I thank the gentlewoman for yielding me this time. She has done an outstanding job on this good rule; and she has an interesting closing comment, I think, which I support enthusiastically when she makes it.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in yielding me this time to speak on this bill.

I, too, would like to express my appreciation to the chairman, the gentleman from Ohio (Mr. HOBSON), the gentleman from Massachusetts (Mr. OLVER), and to our good friend, the gentleman from California (Mr. FARR), who have been focusing on one aspect of the military construction budget which deals with the problem of unexploded ordnance, the bombs and shells and military toxins, that have been left over and littered across the landscape, really, of these 206 facilities across the country.

The subcommittee, for the first time as near as I can tell in history, focused on this issue. They brought people together from the various services, looked at the context of the problem, talked to the experts; and, for the first time, we are having an inventory of this problem. We are at a time when there are a number of bases around the country, it is no secret, that probably should be closed. There are a lot of reasons why we are not going ahead with that process.

One of the reasons, candidly, is that people are concerned about what they get stuck with when they are over. I think of what has happened with Fort Ord. Despite hundreds of millions of dollars and 11 years of work, we have not yet been able to quite put all those pieces together and finish the job.

What this subcommittee has done here today is the culmination of work that is going to make a difference not just cleaning up these sites, long overdue, it is going to help reorder the process within the Department of Defense so that, at a time when we are giving unprecedented sums of money to the Department of Defense, we will be able to take a little bit of it to be able to make sure that we are not leaving hazards for communities to deal with for years to come.

Mr. Speaker, one of the more important things is that not only are we going to be focusing the attention within the Department of Defense, but the technology that will be developed as we learn to do a better job cleaning up after ourselves is going to make a difference for the other over 2,000 sites across the country, in every State, in most of the congressional districts, that are represented here in this body. We are going to learn to do a better job.

Last but not least, it is going to have international implications. Because, sadly, Mr. Speaker, every single day we have children around the world who are killed from unexploded ordnance, the

legacy of what has happened in Africa, in the Balkans, and in Southeast Asia. With the help of the subcommittee in focusing on doing a better job, we are going to learn how to clean up that toxic legacy. It is going to make a difference not just with the men and women we have on our military bases, not just for the communities that are going to inherit lands that they can put in more productive uses, but I think it will make a difference for the quality of life for millions of people around the world.

My only concern is that it looks like there is a little less money than we had last year. At the rate we are going, it is going to take us in the neighborhood of 100 years or more to clean up after ourselves. I am hopeful in the course of the process, as we go through the conferencing, there may be a possibility of putting the money behind it that is necessary.

It is not going to get any cheaper to clean up after ourselves. The liability and the problems are only going to grow over time. And, ironically, the more money we spend to do it right, it will drive down the unit cost, it is going to return the land to productive uses, and it will make the ultimate cleanup cheaper.

I appreciate deeply what the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER) have done and the committee has done, as well as the work of the gentleman from California (Mr. FARR). I am hopeful this body will get behind it to give the rest of the push that is needed to make sure we do the job right on the part of our military service and people around the world.

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. DAN MILLER).

Mr. DAN MILLER of Florida. Mr. Speaker, I rise in support of the rule and for the basic bill behind it, the military construction bill.

I happen to serve on the Subcommittee on Military Construction, and it is a pleasure to serve with the gentleman from Ohio (Mr. HOBSON), chairing that committee for the past 4 years, and the gentleman from Massachusetts (Mr. OLVER), also. It is a bipartisan committee and a bipartisan bill.

My congressional district in Florida, beautiful area in southwest Florida, does not have any military facilities and does not really have any major military contractors, so I approach this bill not from my particular district but what is right for this country and right for our soldiers and what will keep the military strong and prepared, as it was for the events that developed after September 11.

I know that Chairman HOBSON in the past 4 years has been working hard to improve the quality of life. The key to being prepared, as we needed to be starting in September of last year, is to have a strong military but also a military that is committed and prepared to go into action at any time; and key to that is the quality of life. That is something that we have been working on now for a number of years.

In my congressional district, we have lots of retired military people, a lot of veterans. A lot of them are World War II generation, or the Korean War generation, even World War I generation. But it is a different military today with the volunteer military. People do not live in the barracks with a hundred other soldiers. Nowadays, we need to have facilities for people to volunteer to be in the military and to be willing to stay and to serve, whether it is at Fort Bragg in North Carolina or in Naples or in Korea, or wherever we have our soldiers stationed around the world.

Quality of life is really critical in this job. As a businessman, before I came to the Congress, one of the things I learned is you need to keep your employees happy. You want to avoid a turnover in your employees. You want to have employees stay and not move on because of the cost of training people. If you can keep an employee for a number of years and keep that employee happy and contented, they will do a good job. And that is exactly what we need to do in the military, is to attract the good people and to provide an environment so that they feel proud and they are satisfied in their job.

□ 1645

So in the past few years, we have had success. Several years ago I went with the gentleman from Ohio (Mr. HOBSON) to Naples. We saw where 10,000 sailors are based in Naples, Italy, and the Sixth Fleet works out of there.

The facilities were in a volcano. We had to move our facilities to take our sailors out of this area. The facilities were almost World War II era. The fact is, they were not very good accommodations. It was cramped quarters. When sailors came ashore, they had to go back to the ship at night.

Over the past few years, we have been able to create the basic enlisted man's quarters. So instead of the sailors coming ashore and having to go to the ship at night and sleep in bunks, they were able to stay overnight in facilities with two people to a room.

We spent a lot of money on child development centers. We have them throughout the country at military facilities because we want to allow the families to be able to stay there with their children.

In Sicily, I saw facilities where instead of a barracks with 50 people in it, we had semi-private rooms like college dormitories. When I was in college, we had bathrooms down the hallway, but it is a different world today.

We have to provide facilities that will allow the military to be happy and their families satisfied in accommodations that are safe. Their children can go to a day care program, elementary and middle and secondary schools. That is what this bill is about, is providing the facilities for the quality of life.

It is also things like runways, the command and control centers. We do not see them because they are top secret, but we need to have places where our admirals and generals can control things that are going on in Afghanistan. I commend the chairman for putting together a very good bipartisan bill. I hope Members will support the bill.

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

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. FREYLINGHUYSEN).

Mr. FREYLINGHUYSEN. Mr. Speaker, I rise today in strong support of this rule and the 2003 MILCON appropriations bill. I thank the gentleman from Ohio (Mr. HOBSON) and the ranking member and their staff for their hard work. We know the gentleman from Ohio (Mr. HOBSON) to be a driven man on this issue. And working with the ranking member, one thing we do know on the Committee on Appropriations is that both of those gentlemen, their staff and members of that subcommittee, have personally flown around this world and Nation visiting these Naval, Air and Army bases to see the working and living conditions of the people who put their lives on the line, of whom we are most appreciative.

They know, as all Members of Congress should know, that nearly 70 percent of the young people in the military today are in uniform or married, and their needs are great. This committee and the Chair and ranking member have been true advocates for decent and affordable housing for those in the military who cannot often afford decent housing. They have been in the forefront of supporting them.

They have also been in the forefront of promoting the expansion of day care centers so that those who are in the military, the men and women, can be on the front lines and make sure that their children are provided for in a very safe and clean environment with professionals looking after their youngsters.

In addition, this is a committee that has worked hard to consolidate military operations around the world here domestically, as well as in foreign installations. Through that, they have lowered the maintenance and operating costs of military bases and saved the taxpayers an incredible amount of money.

Mr. Speaker, part of the job of this subcommittee, and while I do not serve on it, is their recognition that we need in this day and age after September to recognize the absolute safety and security of our military personnel, and in many cases they are living in housing arrangements in precarious situations, and this committee has worked very hard to address that need.

I would also like to thank the gentleman from Ohio (Mr. HOBSON) and the

ranking member for including funding in this and previous bills to complete the construction of the high-energy propellant facility at Picatinny Arsenal in my congressional district in New Jersey. This facility is needed to support the development of future weapons systems, include propellants, propellant charges and igniters, as well as support the development of new manufacturing technologies in a timely and cost-effective manner.

It is through this committee that this armament center known as Picatinny Arsenal, which provides 90 percent of the Army's lethality, has been able to put together a unified software engineering center bringing all of these talented men and women under one roof as well as upgrade something as basic as the electrical system of the base which had not been updated since World War II.

This committee's mission is important. It looks after the needs of our soldiers. This rule and this bill need our full support.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I, too, congratulate the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER), the ranking member, for the outstanding job they have done in crafting this bill.

I have enjoyed serving on the Subcommittee on Military Construction and the Subcommittee on Defense; and I feel very proud of the fact that today these two bills are going to pass the House overwhelmingly, and it is because of the good work of not only these two subcommittees, but the good work of the gentleman from California (Mr. LEWIS) and the gentleman from Pennsylvania (Mr. MURTHA) and the staff. We have outstanding staff on the Committee on Appropriations, particularly on military construction and defense. They should be commended for their good work. They work very effectively with the Members.

Mr. Speaker, I want to echo what has been said here. This is a bill that directly affects quality of life. In my area in the State of Washington, we have Fort Lewis where Army transformation is occurring. In this bill, there is a new barracks facility replaced at Fort Lewis. Also a new barracks facility at the Puget Sound Naval Shipyard, and many other items of great importance.

Over the years, I have always believed if we keep these bases modern and updated and give the sailors and the civilian workers a quality place to work, it will certainly help us with retention of both our military personnel and our good civilian workers.

I wanted to rise and strongly urge passage of the rule and passage of this bill. This is a good bill which has been worked out on a purely bipartisan basis. I too commend the chairman and the ranking member for their diligence in going all over the world to look at these facilities and to be able to give the members of the committee their best advice on what needs to be done at these facilities.

We have to remember, we still have kids in Korea. I have been there many times. We have worked hard to fix those facilities; but there is still work to be done at these bases around the world, and we need to continue to do it.

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

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, I rise as a member of this committee to speak in favor of the rule. But in doing so, I think it is necessary to point out for the record that the leadership of this committee, it is exceptional. It is truly bipartisan. It is led by the gentleman from Ohio (Mr. HOBSON) and the ranking member, the gentleman from Massachusetts (Mr. OLVER). The committee is not just a numbers committee. This committee is changing the definition of what is often said about men and women in uniform about their quality of life.

We have dumped the old military style of designing and deciding what should be the appropriate size for a military living room or a military kitchen. We have turned this process into what all other communities do, and that is building to community standards.

The housing that we are building for the military now could win architectural awards, and the people who live in them are absolutely delighted that they can live in some of the prettiest homes in America, which are really built for community standards, where there is child care, where they can walk to work, if possible, and all of the other concepts that cities around this Nation are looking towards. We are letting the military lead the way, and it is being done by the leadership of this committee.

I stand here today in support of the rule and in support of the bill, but also in support of the attitude or the direction which this committee is taking to make sure that the quality of life for the military is an exemplary life for how all Americans can live, and that we do not in the future drive by military housing and military bases and say, oh, look at the way government builds its stuff. This is the kind of building and architecture that we are going to be proud of, and they are going to be proud to live in it. And if the welfare and morale of the men and women who are fighting for our country is upheld, I think their soldiering will be a lot better.

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

Mr. Speaker, all morning we have been extolling our patriotic values; but as our uniformed men and women know so well, there is a significant gap between our rhetoric and our actions. This House can no longer ignore the long-standing needs to repair, renovate, replace and build the operational facilities and housing needs necessary for a modern military charged with protecting the United States from the scourge of global terrorism.

I urge my colleagues to support this rule and support H.R. 5011, and I call upon the administration to provide sufficient funding in the future to address these significant national security priorities.

As I said in the beginning, I want to commend all those involved in coming up with the bill. My only regret is the necessary funding that I think our uniformed men and women deserve, and what the American people expect us to provide to them, is not here; and hopefully we can work on that in the coming budget cycle.

Mr. Speaker, I yield 7 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I take this time for the purpose of inquiring of the gentlewoman if she might explain the parliamentary procedure, this mystery motion, that the gentlewoman is about to offer as an addition to the rule that we are now talking about, military construction, which we are all in favor of. But I keep hearing rumors that we might suddenly be faced with a parliamentary situation where we are talking about increasing the debt ceiling. I yield to the gentlewoman for the purpose of explaining thoroughly to the body since there might not be any time to debate this.

Mrs. MYRICK. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentlewoman from North Carolina.

Mrs. MYRICK. Mr. Speaker, this is Senate 2578 to amend title 31 of the United States Code, and this is at the end of the resolution without an intervention of any point of order we would consider this; and this title 31 of the United States Code is to increase the public debt limit, and it would be considered as a bill as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except for 1 hour of debate on the bill equally divided and controlled by the chairman and the ranking minority member of the Committee on Ways and Means, and one motion to commit, and this has been shared with the minority.

□ 1700

Mr. STENHOLM. If I understood, this would be another one of the rules that provides for no debate and no discussion, no amendments. Debate for 1 hour, but no amendments.

Mrs. MYRICK. No, it provides for 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

Mr. STENHOLM. I misspoke. But if Members on this side would have an

amendment of which we believe would be a better way to proceed regarding increasing the debt limit, which many of us are prepared to give the President what he has asked for as a clean debt ceiling increase, but we have a little different idea about how that ought to be done. But I understand the gentlewoman's rule that will be coming will again preclude Members on the minority side from having an opportunity to amend; is that correct?

Mrs. MYRICK. This is providing a straight up and down vote.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding. I would just like to clarify this. Over the last several weeks, we have had many of my friends on the other side of the aisle join with us in saying it is very important for us to as quickly as possible take action to increase the debt ceiling. The procedure which has just been outlined by my friend from Charlotte would in fact allow for the full hour of consideration and the Members of the minority will have an opportunity to offer a motion to recommit.

Mr. STENHOLM. But no amendment.

Mr. DREIER. No, there would not be an amendment. This would be a standard procedure as would have come forth from the Committee on Ways and Means. So I think it is a very appropriate one. And I think that we should try and move just as expeditiously as possible on this.

Mr. STENHOLM. Looking at the rule, it says that there will be 1 hour of debate and one motion to commit. Commit to what?

Mrs. MYRICK. It is to commit it back to committee.

Mr. STENHOLM. So it is not a motion to recommit?

Mrs. MYRICK. It is to commit it back to the Senate, because the House would be acting on the Senate bill.

Mr. STENHOLM. Then just about the time I think that I have seen every most unusual political circumstance on this floor, we get another one that is real interesting in this regard. But if I understand the gentleman from California correctly, this provides for a clean increase of $450 billion in the debt ceiling, so all who vote for this are voting to borrow an additional $450 billion clean. It is not going to be added to the military construction. It is a simple take-up of the Senate bill; and if 218 Members vote to borrow that money, it is clean.

Mr. DREIER. If the gentleman will yield, I think that my friend is among those who has advocated an increase in the debt ceiling. I may be wrong on that.

Mr. STENHOLM. No, the gentleman is correct; but not in the manner in which the gentleman is proposing.

Mr. DREIER. Let me say, if the gentleman would continue to yield, that this is the second manner in which we have proposed this. We have already passed language out of here that would allow for conferees in the supplemental appropriations bill to consider increasing the debt ceiling, and now we have come up with a second procedure. People have said that they want to have this done just as quickly as possible. I do not know if it would be possible for us to put into place a procedure that would satisfy my friend, but we share the same goal.

Mr. STENHOLM. Reclaiming my time, I think you are getting very close to satisfying me.

Mr. DREIER. Great. That is reassuring.

Mr. STENHOLM. But I would say to the gentleman that I would feel a whole lot better about the procedure if you allowed the Moore-Spratt bill as a substitute amendment so that we might have a true expression; and then after we have had that true expression, then I certainly would intend to join with the majority in seeing that we do not bring our country to the edge of default. My problem is with the procedure, but it sounds to me like you are getting there.

Mr. DREIER. If my friend will yield further, I just want to express my appreciation for his understanding of our desire to find a procedure around which we can just as quickly as possible do something that we both want to do and that is ensure that we do not see a default and go ahead and have us pay our bills.

Mr. STENHOLM. With all due respect, I understand why you are doing what you are doing. I continue to be extremely disappointed in the lack of consideration for minority views in this body. The last time I got into this exchange, I was reminded that at one time I was in the majority. And I would remind my friends on that side when we were in the majority I often sided with you on fairness. This again is not a fair rule, but I understand the rule of majority; and I appreciate the time and clarification because, as I understand it, we were about to vote on this with no debate, no discussion, there was going to be a lot of confusion regarding this; but now I think more people will have a little better understanding of the confusion.

Mr. DREIER. I appreciate my friend's kind words.

Mr. McGOVERN. Mr. Speaker, I yield myself the balance of my time.

I would urge that Members who are trying to follow what is going on right here on the floor right now to vote ''no'' on the previous question on the amendment and resolution so that we have an opportunity to be able to amend the rule and be able to bring up the Spratt-Moore-Stenholm alternative on the debt limit so we could actually have a debate and we can do this right.

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

AMENDMENT OFFERED BY MRS. MYRICK

Mrs. MYRICK. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MYRICK:

At the end of the resolution add the following:

SEC. 3. That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (S. 2578) to amend title 31 of the United States Code to increase the public debt limit. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to commit.

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

In conclusion, this is a good rule and it is a very good bill.

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

The SPEAKER pro tempore (Mr. ISAKSON). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

There will be 5-minute votes on the amendment and on the resolution after this vote.

The vote was taken by electronic device, and there were—yeas 221, nays 210, not voting 3, as follows:

[Roll No. 274]

YEAS—221

Aderholt	Cooksey	Goodlatte
Akin	Cox	Goss
Armey	Crane	Graham
Bachus	Crenshaw	Granger
Baker	Cubin	Graves
Ballenger	Culberson	Green (WI)
Barr	Cunningham	Greenwood
Bartlett	Davis, Jo Ann	Grucci
Barton	Davis, Tom	Gutknecht
Bass	Deal	Hansen
Bereuter	DeLay	Hart
Biggert	DeMint	Hastings (WA)
Bilirakis	Diaz-Balart	Hayes
Blunt	Doolittle	Hayworth
Boehlert	Dreier	Hefley
Boehner	Duncan	Herger
Bonilla	Dunn	Hilleary
Bono	Ehlers	Hobson
Boozman	Ehrlich	Hoekstra
Brady (TX)	Emerson	Horn
Brown (SC)	English	Hostettler
Bryant	Everett	Houghton
Burr	Ferguson	Hulshof
Burton	Flake	Hunter
Buyer	Fletcher	Hyde
Callahan	Foley	Isakson
Calvert	Forbes	Issa
Camp	Fossella	Istook
Cannon	Frelinghuysen	Jenkins
Cantor	Gallegly	Johnson (CT)
Capito	Ganske	Johnson (IL)
Castle	Gekas	Johnson, Sam
Chabot	Gibbons	Jones (NC)
Chambliss	Gilchrest	Keller
Coble	Gillmor	Kelly
Collins	Gilman	Kennedy (MN)
Combest	Goode	Kerns

King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
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 (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
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)

NAYS—210

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—3

Engel
Roukema
Traficant

□ 1732

Mr. HONDA, Ms. BROWN of Florida, Mr. GEORGE MILLER of California, and Mr. OBERSTAR changed their vote from ''yea'' to ''nay.''

Mr. AKIN changed his vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. MCGOVERN. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman will state it.

Mr. MCGOVERN. Mr. Speaker, are Members to understand that voting ''yes'' on this amendment is a vote to bring up the $450 billion debt limit increase passed by the Senate, but under a rule that does not allow for a House Democratic alternative or any amendments and that does not allow the House to debate the return to fiscal responsibility?

The SPEAKER pro tempore. The Chair will not interpret the amendment. The interpretation of the amendment is for each and every Member of this body to decide.

The question is on the amendment offered by the gentlewoman from North Carolina (Mrs. MYRICK).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 219, noes 211, not voting 4, as follows:

[Roll No. 275]

AYES—219

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
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 (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
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
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
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)

NOES—211

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Miller, Jeff

Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—4

Engel
Fossella
Roukema
Traficant

□ 1743

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 269, nays 160, not voting 5, as follows:

[Roll No. 276]

YEAS—269

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Berkley
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kilpatrick
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
McCarthy (MO)
McCrery
McHugh
McInnis
McKeon
McKinney
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pastor
Paul
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Udall (CO)
Udall (NM)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—160

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capuano
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Dooley
Doyle
Edwards
Eshoo
Evans
Farr
Filner
Ford
Frank
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Harman
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Luther
Lynch
Markey
Mascara
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Peterson (MN)
Phelps
Rahall
Rangel
Rivers
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sanchez
Sanders
Sawyer
Schakowsky
Serrano
Sherman
Shows
Skelton
Smith (WA)
Solis
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Wexler
Woolsey
Wu

NOT VOTING—5

Baca
Engel
Fattah
Roukema
Traficant

□ 1756

Messrs. ISRAEL, LUTHER and MENENDEZ and Ms. SANCHEZ changed their vote from ''yea'' to ''nay.''

Mr. PASTOR changed his vote from ''nay'' to ''yea.''

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOBSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5011 and that I may include tabular and extraneous material.

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

There was no objection.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore. Pursuant to House Resolution 462 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. 5011.

□ 1757

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. 5011) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes, with Mr. GILLMOR 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. HOBSON) and the gentleman from Massachusetts (Mr. OLVER) each will control 30 minutes.

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

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

Mr. Chairman, it is my pleasure to present the House recommendation for the military construction appropriations bill for fiscal year 2003. This legislation provides funds for many types of construction projects on military installations here in the United States and abroad. Projects range from barracks and housing to urban assault training ranges and runways.

I want to particularly thank my ranking member, the gentleman from Massachusetts (Mr. OLVER), for his help in producing this bipartisan bill. I also want to thank the committee on both sides of the aisle and the staff on both sides of the aisle. We have worked together in unison to produce a bipartisan bill.

In my opinion, the projects included in this bill are vital to the security of the United States, especially at this time. Equally important, the project contributes to the health and safety of the troops and their families and the quality of life and their training.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Military construction, Army	1,778,256	1,450,438	1,414,557	-363,699	-35,881
Defense emergency response fund (DERF)	---	100,000	100,000	+100,000	---
Rescission	-36,400	---	-18,676	+17,724	-18,676
Emergency appropriations (P.L. 107-117)	20,700	---	---	-20,700	---
Total	1,762,556	1,550,438	1,495,881	-266,675	-54,557
Military construction, Navy	1,144,221	884,661	1,036,335	-107,886	+151,674
Defense emergency response fund (DERF)	---	220,730	209,430	+209,430	-11,300
Rescission	-19,588	---	-1,340	+18,248	-1,340
Emergency appropriations (P.L. 107-117)	2,000	---	---	-2,000	---
Total	1,126,633	1,105,391	1,244,425	+117,792	+139,034
Military construction, Air Force	1,194,880	644,090	783,705	-411,175	+139,615
Defense emergency response fund (DERF)	---	190,597	180,597	+180,597	-10,000
Rescission	-4,000	---	-10,281	-6,281	-10,281
Emergency appropriations (P.L. 107-117)	46,700	---	---	-46,700	---
Total	1,237,580	834,687	954,021	-283,559	+119,334
Military construction, Defense-wide	840,558	740,535	876,366	+35,808	+135,831
Defense emergency response fund (DERF)	---	31,300	24,700	+24,700	-6,600
Rescissions	-69,280	---	-2,976	+66,304	-2,976
Emergency appropriations (P.L. 107-117)	35,000	---	---	-35,000	---
Total	806,278	771,835	898,090	+91,812	+126,255
Total, Active components	4,933,047	4,262,351	4,592,417	-340,630	+330,066
Military construction, Army National Guard	405,565	101,595	159,672	-245,893	+58,077
Military construction, Air National Guard	253,386	53,473	110,680	-142,706	+57,207
Defense emergency response fund (DERF)	---	8,933	8,933	+8,933	---
Total	253,386	62,406	119,613	-133,773	+57,207
Military construction, Army Reserve	167,019	58,779	99,059	-67,960	+40,280

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Military construction, Naval Reserve	53,201	51,554	68,704	+15,503	+17,150
Defense emergency response fund (DERF)	---	7,117	7,117	+7,117	---
Rescission	-925	---	---	+925	---
Total	52,276	58,671	75,821	+23,545	+17,150
Military construction, Air Force Reserve	74,857	31,900	69,200	-5,657	+37,300
Defense emergency response fund (DERF)	---	6,076	6,076	+6,076	---
Total	74,857	37,976	75,276	+419	+37,300
Total, Reserve components	953,103	319,427	529,441	-423,662	+210,014
Total, Military construction	5,886,150	4,581,778	5,121,858	-764,292	+540,080
Appropriations	(5,911,943)	(4,017,025)	(4,618,278)	(-1,293,665)	(+601,253)
Defense emergency response fund	---	(564,753)	(536,853)	(+536,853)	(-27,900)
Emergency appropriations	(104,400)	---	---	(-104,400)	---
Rescissions	(-130,193)	---	(-33,273)	(+96,920)	(-33,273)
North Atlantic Treaty Organization Security Investment Program	162,600	168,200	168,200	+5,600	---
Family housing, Army:					
Construction	312,742	283,346	283,346	-29,396	---
Rescission	---	---	-4,920	-4,920	-4,920
Operation and maintenance	1,089,573	1,119,007	1,119,007	+29,434	---
Total, Family housing, Army	1,402,315	1,402,353	1,397,433	-4,882	-4,920
Family housing, Navy and Marine Corps:					
Construction	331,780	375,700	380,268	+48,488	+4,568
Rescission	---	---	-2,652	-2,652	-2,652
Operation and maintenance	910,095	867,788	867,788	-42,307	---
Total, Family housing, Navy and Marine Corps	1,241,875	1,243,488	1,245,404	+3,529	+1,916

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Family housing, Air Force:					
Construction	550,703	676,694	689,824	+139,121	+13,130
Rescission	---	---	-8,782	-8,782	-8,782
Operation and maintenance	844,715	844,419	844,419	-296	---
Defense emergency response fund (DERF)	---	29,631	29,631	+29,631	---
Total, Family housing, Air Force	1,395,418	1,550,744	1,555,092	+159,674	+4,348
Family housing, Defense-wide:					
Construction	250	5,480	5,480	+5,230	---
Operation and maintenance	43,762	42,395	42,395	-1,367	---
Total, Family housing, Defense-wide	44,012	47,875	47,875	+3,863	---
Department of Defense Family Housing Improvement Fund	2,000	2,000	2,000	---	---
Homeowners assistance fund, Defense	10,119	---	---	-10,119	---
(By transfer)	(7,730)	---	---	(-7,730)	---
Total, Family housing	4,095,739	4,246,460	4,247,804	+152,065	+1,344
Base realignment and closure account	632,713	545,138	545,138	-87,575	---
(Transfer out)	(-7,730)	---	---	(+7,730)	---
Total	632,713	545,138	545,138	-87,575	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
GENERAL PROVISIONS					
General provision (sec. 130)	-60,000	---	---	+60,000	---
General provision (sec. 132)	-112,802	---	---	+112,802	---
Total, General provisions	-172,802	---	---	+172,802	---
Grand total:					
New budget (obligational) authority	10,604,400	9,541,576	10,083,000	-521,400	+541,424
Appropriations	(10,630,193)	(8,947,192)	(9,566,143)	(-1,064,050)	(+618,951)
Defense emergency response fund	---	(594,384)	(566,484)	(+566,484)	(-27,900)
Emergency appropriations	(104,400)	---	---	(-104,400)	---
Rescissions	(-130,193)	---	(-49,627)	(+80,566)	(-49,627)
(Transfer out)	(-7,730)	---	---	(+7,730)	---
(By transfer)	(7,730)	---	---	(-7,730)	---

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

□ 1800

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

Mr. Chairman, this is a fair and bipartisan bill that deserves the full support of all the Members of this Congress. The chairman has done an excellent job with the resources that he has been given; however, we are looking at a bill that is $522 million, which is 5 percent below last year's enacted bill which of course was signed by the President, and last year's level was determined before 9–11. I think most of us would agree that in the wake of 9–11 there is much more that we should be doing, including funding critical force protection projects like perimeter fencing and better inspection stations to secure access to our bases, including building safer barracks for our troops in locations so they are not sleeping right next to the public highways, including providing security and protection for stockpiles of old chemical weapons while we get about the destruction of those stockpiles, and including making certain that we have the capacity in our labs and in our pharmaceutical supplies to meet multiple acts of biological warfare.

Mr. Chairman, in the years that I have had the privilege to serve as ranking member of this Subcommittee on Military Construction under the excellent leadership of the gentleman from Ohio (Chairman HOBSON), we have made real progress in a bipartisan way in improving housing for singles and for families, in improving the workplaces for the men and women who serve America both at home and overseas. And this bill continues our progress. But because of the cut from last year's funding, it continues our progress more slowly in addressing the backlog of needs. Yet it does make an important contribution to our efforts to address the shortfall of military housing and making decent, safe workplaces available to our servicemen and women. We cannot continue, however, that progress if we face additional cutting in the coming years.

Mr. Chairman, finally, I want to thank the staff from both sides of the aisle who have worked so hard to put this bill together: Valerie Baldwin, Brian Potts, Mary Arnold, and Luis James for the majority and of course Tom Forhan for the minority. And I especially want to thank Suzy DuMont of my personal staff after years of dedicated service to the First Congressional District of Massachusetts. This will be Suzy's last MILCON bill. Suzy has served my district and this subcommittee well. She has been a valuable member of my staff, and I wish her all the best as the gentleman from Massachusetts' (Mr. MEEHAN) legislative director.

I urge the Members of the body to support this bill.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. FARR), a member of the subcommittee.

Mr. FARR of California. Mr. Chairman, I want to thank the gentleman from Massachusetts (Mr. OLVER), the ranking member, for yielding me this time.

I rise to engage the distinguished chairman of the Subcommittee on Military Construction in a colloquy.

I appreciate this opportunity to have this colloquy with the gentleman from Ohio (Mr. HOBSON) to clarify and explain certain language in the bill relating to Fort Ord in my district. The bill in section 130 prohibits the Army from expending any money to prepare legal documents relating to the title transfer of lands at Fort Ord that are intended for the purposes of housing development.

If I may ask the chairman, is my characterization of section 130 correct to his understanding?

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

Mr. FARR of California. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, that is correct. Section 130 limits the ability of the Army to prepare documents having to do with the transfer of land at Fort Ord that is planned for housing development.

Mr. FARR of California. Mr. Chairman, if the Chairman will indulge me, I would like to explain to him and my other colleagues that this language was inserted into the bill not because of any action or misaction by the Army, but as a signal to the Fort Ord community that the thousands of acres of Federal land being given to the reuse authority for free should be used to mitigate the housing crunch on the central coast of California.

Despite local governments acknowledging the need for upwards of 23,000 new units to meet the housing demand, the plans for housing development at Fort Ord contain insufficient, if not meager, units available to the local workforce. Instead, that free Federal land will be used to build megamansions out of financial reach for our local workers.

With the language in this bill, title transfers are put on hold until the plans for housing development at Fort Ord reflect a better mix of affordable housing. The local reuse authority is aware of the urgent nature of this language and today's debate and has agreed to re-examine the housing development plans at Fort Ord. I feel confident that eventually this limitation on the Army can be lifted and land transfers for housing development at Fort Ord can proceed again.

I appreciate the Chairman's support and assistance in the matter. He has been a tremendous help in signaling to the Fort Ord community its need to concentrate on affordable housing, given the valuable land that is being given to them.

Mr. HOBSON. Mr. Chairman, I am pleased to be able to assist the gentleman on this matter. Affordable housing is a critical issue, not just at Fort Ord but around the country. Where valuable assets are being given outright to communities as they are under base closure circumstances, those assets ought to be used in a manner that best benefits that community and are not simply sold to the highest bidder.

These are never easy issues because it means discord between Federal and local governments, but I commend the gentleman for confronting this difficult matter. I too am confident that it will be resolved in such a way that more affordable homes will soon be made available at Fort Ord.

Mr. FARR of California. Mr. Chairman, I thank the gentleman for his remarks.

Mr. HOBSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the distinguished chairman and the ranking member for yielding some time to me, and I just wanted to discuss something with the chairman and enter into a colloquy about the aviation support facility at Fort Stewart/Hunter in Savannah, Georgia.

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

Mr. KINGSTON. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, clearly the Military Construction, Army National Guard account is a project that plans and designs an aviation support facility at the Fort Stewart/Hunter Army airfield in Georgia, which I might add I have landed at. The amount listed in the report is $1,158,000; however, the amount actually required for the project is $1,580,000. Unfortunately, an error was made in the report that we plan to rectify as this legislation moves forward.

The gentleman from Massachusetts (Mr. OLVER), the ranking member of the subcommittee, agrees this correction is necessary.

Mr. KINGSTON. Mr. Chairman, I certainly thank the gentleman from Ohio (Mr. HOBSON), and I thank the gentleman from Massachusetts (Mr. OLVER) as well; and I also appreciate the visit that the gentleman made to that very facility a little over a year ago. As my colleague knows from the visit, the facility is very dilapidated and soldiers need a little more elbow room, and they do not certainly need to be operating out of a building that is falling apart.

Just recently, in fact, they have moved into a temporary tent facility; but unfortunately, that even leaks when it rains and in Savannah, Georgia, we get some heavy rains from time to time. Recently, one of my staffers was down there to visit with them, and they actually had to leave the tent because the leak was so bad.

I know that the gentleman from Ohio (Mr. HOBSON) and the ranking member,

and certainly the distinguished chairman who has also visited some of the facilities in Georgia, know the importance of providing our troops with the best facility possible and that these funds will go a long way to helping our servicemen and women. So I thank the gentleman again for everything that he has done in support of Fort Stewart/Hunter and all the other bases and posts in Georgia.

Mr. HOBSON. Mr. Chairman, I am pleased to make these changes, especially for such a worthwhile project.

Mr. OLVER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS), also a member of the subcommittee.

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

Mr. Chairman, I am going to be brief, but I would like to make several comments. First, I want to, as a member of the committee, commend the gentleman from Ohio (Mr. HOBSON), the chairman, and the gentleman from Massachusetts (Mr. OLVER), the ranking Democratic member, for working together on a bipartisan basis once again to do the work of our country and to provide the best services, giving a certain amount of dollars for our servicemen and women. They have done an outstanding job of leading this committee, and I thank them for that.

I especially want to applaud them for their continued efforts to fight for better housing for overseas servicemen and women, people who do not have a constituency back here with a Member of Congress fighting for better housing for them, people who have been forgotten in decades past but now have two leaders in this House fighting for them.

I want to commend their leadership on the new innovative RCI program, the Residential Community Initiative program, that is going to combine private expertise and resources with public resources to get a better bang for the buck out of the taxpayers' money we spend and improve housing for our military men and women.

The one concern I do want to say, Mr. Chairman, is at the end of the day, this appropriation bill is a half a billion dollars below what we spent last year. That was not the responsibility of the subcommittee chairman or the ranking member. That decision was made above our pay grade; but as we go into next year, I hope we can send a message to the leadership of this House and to the administration that America's battles and wars cannot just be won with technology. They have to be won with the best and brightest of our young men and women willing to put on their uniform, risk their lives and serve our country; and I think it does send as a bad message to many of them that we are spending half a billion dollars less this year on military construction programs.

I would remind all of us, Mr. Chairman, that it is estimated that 60 percent of the servicemen and women living in government-provided housing are living in housing that does not even meet minimum DOD standards. We can do better; but today, given the money that this subcommittee was afforded, the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER) did an outstanding job, and I thank them and commend them for their great efforts.

Mr. NUSSLE. Mr. Chairman, I rise today in support of H.R. 5011, the Military Construction Appropriations Act for Fiscal Year 2003. It is the second bill we are considering pursuant to the 302(b) allocations filed by the Appropriations Committee on June 24th. I am pleased to report that it is consistent with the levels established in H. Con. Res. 353, the House concurrent resolution on the budget for fiscal year 2003, which we subsequently deemed as having the effect of a conference report on the resolution. The budget resolution provided $393.8 billion in budget authority for national defense, including $10 billion for a war reserve fund. This bill funds the military construction and family housing portion of that commitment to our men and women in uniform.

H.R. 5011 provides $10.1 billion in new budget authority and $10.1 billion in outlays for fiscal year 2003. It is therefore equal in budget authority and outlays to the 302(b) allocation to the House Subcommittee on Military Construction Appropriations. It does not contain emergency-designated new BA. It does include $50 million worth of rescissions of previously enacted BA and $3 million in related outlays.

Accordingly, the bill complies with section 302(f) of the Budget Act, which prohibits consideration of bills in excess of an appropriations subcommittee's 302(b) allocation of budget authority and outlays established in the budget resolution.

H.R. 5011 represents this House's solemn commitment to the quality of life of those who put their lives on the line every day for our freedom. It not only addresses the long-term infrastructure problems at military bases, it sustains barracks, family housing, medical facilities, and child support centers across the country and at bases overseas. It also provides infrastructure funding for National Guard and Reserve troops who now find themselves on the front lines of the war against terrorism.

In conclusion, I express my support for H.R. 5011.

Mr. UNDERWOOD. Mr. Chairman, I rise in support of H.R. 5011, the bill making appropriations for our nation's military construction needs for Fiscal Year 2003. This bill is important legislation that will strengthen our nation's defense capability in addition to directly benefiting our nation's military community by improving the quality of life for our dedicated military personnel and their families.

The bill ensures that the infrastructure and facilities at our military installations get needed attention. Towards this end, I am especially pleased that this bill includes $75 million in military construction projects for Guam, protecting its strategic role to our national security in the Western Pacific.

I am most pleased that this bill includes funding for Phase III of the Guam Army National Guard Readiness Center. The funding will complete the remaining designs for this Armory and provide for necessary training, assembly, and physical fitness space that will allow for demanded readiness and mission capability levels to be fulfilled. Moreover, the bill includes $15 million for a new on-base water supply system for Andersen Air Force Base, a project that will provide a reliable and safe water supply system essential for mission, fire protection, living conditions, and quality of life. Additionally, I am pleased that the bill includes roughly $17 million to continue the replacement of Andersen's hydrant fuel system, funding that will equip the base with the largest fuel capability in the entire Pacific.

The people of Guam welcome this significant continuation in military construction activity and appreciate the recognition this funding provides for our people in uniform, particularly the Guam Army National Guard. I urge passage of H.R. 5011 as it bolsters our national defense, advances our readiness and supports our men and women in uniform. I commend the Chairman, Mr. HOBSON, and the Ranking Member, Mr. OLVER, for their work in bringing this legislation to the floor today. As always, their leadership has been integral in the annual appropriations process and I thank them for their efforts on behalf of our nation's military and the people of Guam.

Ms. LEE. Mr. Chairman, the House GOP Leadership has gagged Democrats, seniors, and our disabled community by not allowing the chance to first offer and debate a real prescription drug plan. This undermines our democracy, and the true meaning of representative government.

The growing elderly community, most of whom live on a fixed income, consistently pay ridiculously high costs for prescription drugs. Many in the disabled community, who are often ignored in this debate, are also forced to pay an enormous amount. The high price of prescription drugs must not concern the Republican member in this House, because they are only willing to cover less than 25% of the Medicare beneficiaries. This is opposite of the Democratic substitute that would have guaranteed a benefit to everyone.

Democrats know that we must provide government guaranteed comprehensive drug coverage. Under the Democratic plan we would have ensured that seniors, and people with disabilities have affordable, comprehensive, and guaranteed access to prescription drug coverage. But nothing Democratic really matters here today. The Republican plan allows privatization. They continue to protect their big business donors and corporate bedfellows.

In my own district, Oakland, CA, elderly and disabled are paying up to $2,000 more a year for basic drugs than those in Canada, Europe, and Japan. This another example of dramatic price discrimination. Democrats understand that this is unfair and we implore seniors across the country to stand up to the bully-tactics that the Republicans continue to use.

Women need prescription drugs too! More than half of the nearly 40 million Medicare beneficiaries are women. Let me remind the Republicans that although insurance plans routinely cover prescription drugs, they fail to cover prescription contraceptives and related medical visits and exams. Women on Medicare spend 20% more than men on prescription drugs, especially since prescription drugs are important for treating chronic illnesses which increase in age.

Maybe Republicans need to be reminded that the average woman on Medicare spends 22% of her income on out-of-pocket health

care expenses, including prescription drugs. And this is worse for poor women without insurance. For poor women this figure rises to 53%.

I'm sure that seniors, the disabled community, and women would like to know what they could received under the Democratic plan: a $25 monthly premium; a $100 yearly deductible; 80/20 cost sharing between Medicare beneficiaries, a $2,000 maximum for medicate beneficiaries, and a sliding scale for low income individuals for up to 150% of median income. But we have been muzzled. We cannot even debate a real prescription drug plan. What a shame! What a sham.

Mr. STRICKLAND. Mr. Chairman, for much of the twentieth century, our great steel companies churned and poured out the material used to build our nation creating the skeletons of our battleships, military equipment and installations. Today, during floor consideration of the Military Construction Appropriations Act of 2003 (H.R. 5011), I intended to offer an amendment to ensure that only domestic steel could be used for military construction. However, due to restrictions under the rule for funding limitations, my amendment was subject to a point of order and was not offered. For the record, I would like to fully explain the intent of this amendment.

Mr. Speaker, my amendment to Section 108 of H.R. 5011 was designed to help American industry ailing from the effects of globalization. Section 108 currently states that no funds appropriated in H.R. 5011 may be used for procurement of steel for construction projects or activities for which American Steel producers have been denied the opportunity to compete for such steel procurement. While I support this provision, the goal of my amendment was to strengthen that Section and require that the funds made available in H.R. 5011 would be spent on purchasing equipment, products or systems which contain steel manufactured in the United States. In other words, competition is good, but I wanted to go one step further and guarantee our military construction contracts involve U.S. steel. Our national defense depends on a healthy U.S. steel industry and it makes sense to offer some federal guarantees to this struggling industry at this critical time. I will continue to work with my colleagues in the House and the Senate to ensure the dollars we spend will protect the security of America, protect American jobs and the livelihood of the American Steel worker.

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

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

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD, and those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 5011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, for the fiscal year ending September 30, 2003, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

Mr. HOBSON. Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 22, line 7, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of the bill from page 2, line 5, through page 22, line 7, is as follows:

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $1,514,557,000, to remain available until September 30, 2007: *Provided*, That of this amount, not to exceed $158,664,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for ''Military Construction, Army'' under Public Law 107–64, $5,000,000 are rescinded.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,245,765,000, to remain available until September 30, 2007: *Provided*, That of this amount, not to exceed $94,825,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $964,302,000, to remain available until September 30, 2007: *Provided*, That of this amount, not to exceed $78,951,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $901,066,000, to remain available until September 30, 2007: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed $45,432,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of this amount, $84,400,000 shall not be available until five days after the Army notifies the Senate and House appropriations committees that it is able to meet milestones for construction of chemical weapons destruction facilities agreed upon by the Office of the Secretary of Defense and the Office of Management and Budget.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $159,672,000, to remain available until September 30, 2007.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $119,613,000, to remain available until September 30, 2007.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $99,059,000, to remain available until September 30, 2007.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $75,821,000, to remain available until September 30, 2007.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $75,276,000, to remain available until September 30, 2007.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in Military Construction Authorization Acts and section 2806 of title 10, United States Code, $168,200,000, to remain available until expended.

FAMILY HOUSING CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, $283,346,000, to remain available until September 30, 2007.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $1,119,007,000.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

(INCLUDING RESCISSION)

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, $380,268,000, to remain available until September 30, 2007.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $867,788,000.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION)

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, $689,824,000, to remain available until September 30, 2007.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $874,050,000.

FAMILY HOUSING CONSTRUCTION, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, $5,480,000, to remain available until September 30, 2007.

FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, $42,395,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, $2,000,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing, and supporting facilities.

BASE REALIGNMENT AND CLOSURE ACCOUNT

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $545,138,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or his designee; (3) where the estimated value is less than $25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

SEC. 114. Not more than 20 percent of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year.

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 118. During the 5-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation ''Foreign Currency Fluctuations, Construction, Defense'' to be merged with and to be available for the same

time period and for the same purposes as the appropriation to which transferred.

SEC. 119. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Sea to assume a greater share of the common defense burden of such nations and the United States.

SEC. 120. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

SEC. 121. (a) No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the ''Buy American Act'').

(b) No funds made available under this Act shall be made available to any person or entity who has been convicted of violating the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the ''Buy American Act'').

SEC. 122. (a) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 123. Subject to 30 days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in ''Family Housing'' accounts or construction of military unaccompanied housing projects in ''Military Construction'' accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Fund shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing and supporting facilities.

SEC. 124. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the congressional defense committees the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(c) In this section, the term ''congressional defense committees'' means the following:

(1) The Committee on Armed Services and the Military Construction Subcommittee, Committee on Appropriations of the Senate.

(2) The Committee on Armed Services and the Military Construction Subcommittee, Committee on Appropriations of the House of Representatives.

SEC. 125. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 and from funds appropriated for the operation and maintenance of the military departments contained in Title II of the Department of Defense Appropriations Act, 2003, to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

SEC. 126. Notwithstanding this or any other provision of law, funds appropriated in Military Construction Appropriations Acts for operations and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than $35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days advance prior notification to the appropriate committees of Congress: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations all operations and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

SEC. 127. Notwithstanding any other provision of law, the Secretary of the Navy is authorized to use funds received pursuant to section 2601 of title 10, United States Code, for the construction, improvement, repair, and maintenance of the historic residences located at Marine Corps Barracks, 8th and I Streets, Washington, D.C.: *Provided*, That the Secretary notifies the appropriate committees of Congress 30 days in advance of the intended use of such funds: *Provided further*, That this section remains effective until September 30, 2006.

SEC. 128. Of the funds provided in previous Military Construction Appropriations Acts, a total of $44,627,000 is hereby rescinded, as of the date of enactment of this Act, from the following accounts in the specified amounts to reflect savings from favorable foreign currency fluctuations:

''Military Construction, Army'', $13,676,000.

''Military Construction, Navy'', $1,340,000.

''Military Construction, Air Force'', $10,281,000.

''Military Construction, Defense-wide'', $2,976,000.

''Family Housing Construction, Army'', $4,920,000.

''Family Housing Construction, Navy'', $2,652,000.

''Family Housing Construction, Air Force'', $8,782,000.

SEC. 129. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 130. None of the funds made available in this Act may be used to prepare any documents relating to the conveyance out of United States ownership of real property at former Fort Ord, California, intended for use for housing development, as defined in the redevelopment plan for Fort Ord.

SEC. 131. Amounts appropriated for a military construction project at Camp Kyle, Korea, relating to construction of a physical fitness center, as authorized by section 8160 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 113 Stat. 1274), shall be available instead for a similar project at Camp Bonifas, Korea.

AMENDMENT OFFERED BY MR. COLLINS

Mr. COLLINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLINS:

At the end of the bill (before the short title), insert the following new section:

SEC. ____. None of the funds provided in this Act may be used to relocate the headquarters of the United States Army, South, from Fort Buchanan, Puerto Rico, to a location in the continental United States.

Mr. COLLINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. HOBSON. Mr. Chairman, if the gentleman will yield, we are prepared to accept the amendment.

Mr. OLVER. Mr. Chairman, if the gentleman will yield, we also are prepared to accept the amendment.

Mr. COLLINS. Mr. Chairman, I would like to say thanks to the gentleman from Ohio (Mr. HOBSON), the chairman, and to the gentleman from Massachusetts (Mr. OLVER), the ranking member, and also to the full committee chairman for funding a chapel at Fort Benning, Georgia, one that burned previously this year; and it was the most desired MILCON project at Fort Benning by the chief of the infantry, Major General Paul Eaton. I thank them very much on behalf of the families that are there.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. COLLINS).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments?

If not, the Clerk will read.

The Clerk read as follows:

This Act may be cited as the ''Military Construction Appropriations Act, 2003''.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

I wonder, Mr. Chairman, if the Chair could inform us how much time this bill has taken today in comparison to

how much time the defense appropriation bill took earlier in the day. I know the gentleman from Pennsylvania was interested.

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

Mr. OBEY. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, we hope we have completed within our time allotment to preserve our win of previous years, and that is only due to the cooperation of all the Members. So I am not going to talk anymore because I may overstay my time.

□ 1815

The CHAIRMAN (Mr. GILLMOR). Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. NUSSLE) having assumed the chair, Mr. GILLMOR, 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. 5011) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes, pursuant to House Resolution 462, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro temore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the 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.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 426, nays 1, not voting 7, as follows:

[Roll No. 277]

YEAS—426

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—7

Brown (SC)
Engel
Gordon
Miller, George
Roukema
Tierney
Traficant

□ 1839

Ms. SANCHEZ changed her vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BROWN of South Carolina. Mr. Speaker, on rollcall No. 277 I was unavoidably detained. Had I been present, I would have voted "yea."

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill and concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 2690. An act to reaffirm the reference to one Nation under God in the Pledge of Allegiance.

S. Con. Res. 125. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

INCREASING PUBLIC DEBT LIMIT

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 462, I call up Senate bill (S. 2578) to amend title 31 of the United States Code to increase the public debt limit, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The text of S. 2578 is as follows:

S. 2578

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

SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking ''$5,950,000,000,000'' and inserting ''$6,400,000,000,000''.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 462, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

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

Mr. Speaker, more than a month ago, this House passed H.R. 4775 by a vote of 280–138, a clear bipartisan majority. That bill created the ability to address the debt limit. For over a month, the Senate has not responded to addressing the debt limit.

However, recently the Senate sent to the House S. 2578, a bill to raise the debt limit. Debt-limit bills usually originate in the House. In fact, the last time this situation faced the House was in 1946. In 1946, the Senate sent the House a debt ceiling bill. On the floor of the House then-majority leader John McCormick referred that bill to the Committee on the Judiciary. The House did not consider the attempt by the Senate to initiate debt-limit legislation.

So today, in the act of considering a Senate-initiated debt-limit bill, we are in a situation which, based upon the data provided to me by the Parliamentarians, could be considered to be an unprecedented situation. But given the circumstances surrounding the way in which we are required to take this bill up, it should not be considered a precedent because for over a month we could have been engaging in the historical usual pattern of addressing debt limit.

It is quite true that that measure that was presented to the House in 1946 was a Senate bill to lower the debt limit, not to raise it. That is why the House, in attempting to preserve its prerogative, felt comfortable in referring the bill to the Committee on the Judiciary from which it never surfaced. But a bill to lower the debt limit, as Members appreciate, does not contain within it the need to act, as does a bill that increases the debt limit.

The failure of the Senate to act on the invitation to address the debt limit by the House means that the Senate has successfully run down the clock by which we could utilize the House initiation of addressing the debt limit. So as far as the chairman of the Committee on Ways and Means is concerned, the measure before us should not be considered a change in the historic relationship between the House and the Senate over the origination of debt-limit legislation; but, rather the action taken today is a one-time acknowledgment of the exigencies of the circumstances facing the House. We are dealing with this purely to facilitate the movement of this bill to the President's desk, and it should not be interpreted as a precedent-changing situation.

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

□ 1845

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

A lot of strange things are happening on the Republican watch as the Committee on Ways and Means loses all of its jurisdiction. I was just about to blame the Republican leadership; and, lo and behold, it is the Senate that is responsible. Every time I get ready to be critical of the Republican leadership for bypassing the House rules, by creating rules to pass legislation, I hear my distinguished and talented and intellectual chairman say, ''This is not unprecedented. This is just the first time it is happening because what is unprecedented is what the other body is doing. Shame on the other body.''

Let me tell you this. We are the keepers of the tradition of the House, and these rules are being violated each and every day. Who would think at a time of war when our Nation is still in recession, where we are trying to bring our wounds together, where we recognize that, sure, we lost 5 or $6 trillion in the surplus, it was not the Republicans' fault, it was because the economy let us down. But now that we are asked to increase the debt ceiling, we are no longer Republicans and Democrats, we are Americans, and we are going to say, yes, let's do it.

Why? Because Republicans are trustworthy? Of course we cannot say that. Because we come together when the full faith and credit of the United States is at stake. When that flag goes up, then we have no choice except to increase the debt ceiling. It is just the same as finding out at home that when you find out that your credit has run out, you can start pointing fingers, but if you need an extension or the mortgage is going to be foreclosed, then you have to get the extension.

All we want to know is, what did you do with the money? How are you going to spend the additional money that you are going to borrow? And if the Senate is so irresponsible, why did the House not act sooner? Why did the Committee on Ways and Means not come together in a bipartisan way and bring something to the floor?

Mr. Speaker, the Senate may have a lot of things that they are doing in an unprecedented way, and they should be subject perhaps to a lot of criticism. But the inadequacy of the House leadership and the fact that my historically prestigious committee is losing jurisdiction each and every day under Republican leadership, let us not blame that on the Senate.

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

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

I am trying to understand how the Committee on Ways and Means is losing jurisdiction when the chairman of the committee and the ranking member are debating a bill brought to us by a rule which allows no amendments, exactly the way in which legislation coming from the Committee on Ways and Means is always dealt with.

I think if you have really followed this debate over time, you will understand the dynamics of the debate. If we do not do it, we get criticized. If we do do it, we get criticized. If in fact the measure before us, which originated in the Senate and is the work product of the Senate leadership and the gentleman from New York finds the Senate's language and structure unacceptable, then his problem is with the leadership of the Senate, not of the leadership of this House.

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

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT), a senior member of the Committee on Ways and Means.

Mr. MCDERMOTT. Mr. Speaker, I always am impressed by the chairman of the committee's use of words. He said that we are out here because of the exigencies of circumstances. What he means is, we made a mess and we got to fix it. It is a mess that did not have to happen.

Mr. Speaker, I refer to an op-ed of Sunday, February 11, 2001, by Robert Rubin that is called A Prosperity Easy to Destroy. It says in short:

> The proposed tax cut of roughly $2 trillion—$1.6 trillion of tax cuts plus $400 billion of interest on debt that would otherwise have been retired—would substantially diminish the fiscal position of the Federal Government, and would create a serious threat of deficits on the nonentitlement side of the Federal budget.

This was all predicted in February of last year. We came out here, and we have been told, ''You can spend all you want, you can give it all away, you can do all these things.''

He actually even predicted that there would not be any money for a prescription drug benefit. Ha. Mr. Rubin knew very well. He is the guy that brought us out of the mess that you created between 1980 and 1992. Two Republicans, Mr. Reagan, Mr. Bush, they dug the hole, we dug us out of it, and now you are back into it and you call it the exigencies of circumstances. Why do you not admit you have made a mess? You cannot get the votes for your prescription drug benefit because it is inadequate and everybody knows it. You are privatizing Medicare and you are trying to hide this debt raising right underneath the prescription drug benefit.

If you are lucky and you can squeeze the votes out of your people, the press tomorrow will talk about Republicans pass inadequate drug benefit. They will never mention this business about the mess you created fiscally in this country. You ought to be ashamed of yourself bringing it out here like this.

The article referred to is as follows:

[From the New York Times, Feb. 11, 2001]

A PROSPERITY EASY TO DESTROY

(By Robert E. Rubin)

I had not intended to get involved in the public debate on fiscal policy at this point, but I feel so strongly that a tax cut of the magnitude proposed is a serious error in economic policy that I felt a need to speak.

The proposed tax cut of roughly $2 trillion—$1.6 trillion of tax cuts plus $400 billion of interest on debt that would otherwise have been retired—would substantially diminish the fiscal position of the federal government, and would create a serious threat

of deficits on the non-entitlement side of the federal budget. That, in turn, could increase interest rates and recreate the loss of consumer and business confidence associated with the deficits of the late 80's and early 90's.

Over the last 20 years, our nation has seen the benefits of fiscal discipline, and also the adverse consequences of a lack of fiscal discipline. Big tax cuts are a fast way back to deficits and economic stress. From these experiences, there are lessons that should guide policymakers. First, we gain greatly when our nation is clearly committed to budgetary discipline and lose greatly when it is not. Second, it is wise to be prudent—we should avoid committing ourselves to dramatic courses of action that are hard to reverse in the face of the inherent uncertainties of any projections. Third, we have a duty not to pass on burdens to the next generation when we can act today. The size of the proposed tax cut fails all these tests.

Instead, the fiscal discipline that was so central to the remarkable economic conditions of the past eight years is the best path for both our short-term and long-term economic well-being. A brief look back can provide very useful guidance for going forward.

In 1992, the unemployment rate was over 7 percent, the fiscal deficit was $290 billion and projected by the Congressional Budget Office to grow to over $500 billion in 2001 from there, the federal debt had quadrupled over the preceding 12 years and was projected to double again by 2001, and the prevailing view was that economic conditions would remain mediocre well into the future.

The economic transformation that followed included massive job creation, rising incomes, low inflation, unemployment now at 4.2 percent, and today's large current and projected surpluses. Many factors contributed to this transformation, including globalization, new technologies, vast corporate restructuring and our flexible labor and capital markets. But I think there is no doubt that key and indispensable to this was the restoration of fiscal discipline, beginning with the deficit reduction program of 1993.

Just how dramatic a change in economic policy this was is evidenced by the vituperativeness of opposition, with strident prediction of vast increases in unemployment and recession.

Instead, fiscal discipline contributed greatly to lower interest rates and, very, very importantly, restoration of confidence by consumers and business after deficits had come to symbolize a much broader set of concerns about our ability to manage our affairs. The result was increased demand; increased investment, especially in the new technologies; increased productivity; and sustained growth in gross domestic product, jobs and incomes.

We are now in the process of unwinding the excesses that, in my view, inevitably develop after an extended period of good times. To minimize the difficulty and duration of that unwinding and to best realize our very favorable longer-term prospects, we should continue with our hard-won fiscal discipline and not adopt a greatly outsized tax cut that seriously threatens the federal government's fiscal soundness.

There is broad agreement amongst virtually all mainstream economists that a tax cut this year is unlikely to provide meaningful economic stimulus to deal with whatever adverse circumstances may occur this year. Moreover, if a tax cut is desired for short-term stimulative purposes, the vast preponderance of the one proposed—which affects later years—is largely irrelevant. Instead, a front-end-loaded, moderate tax cut, or even a special rebate aimed at working people with the highest propensity to spend, would maximize current economic impact. The point would be to achieve increased short-term demand without causing a level of fiscal deterioration that would, on balance, damage confidence.

The serious threat of the proposed tax cut to fiscal soundness becomes apparent when you look at the numbers a little more closely. The surplus of $5.6 trillion as projected by the C.B.O. is roughly $2.1 trillion after deducting Social Security and Medicare surpluses—as many members of Congress in both parties have advocated—and making realistic adjustments to better represent future spending on current discretionary programs and tax revenues. Since the proposed tax cut would cost $2 trillion, or $2.2 trillion if an alternative minimum tax adjustment is included, it would entirely use up the remaining surplus, with no additional debt reduction. And that leaves nothing for special programs that already have broad support, like a prescription drug benefit or a greater increase in defense spending for a missile defense system, or other purposes or additional tax cuts, all of which are almost sure to happen this year or over the next few years. These spending increases and the additional tax cuts could well cost between $500 billion and $1 trillion, leading to a deficit under this analysis of the C.B.O. projections.

Moreover, five-year budget forecasts, to say nothing of 10-year forecasts, are highly unreliable—just look at the forecasts that were made five or 10 years ago. Thus, even if you favored a very large tax cut as the preferred use for available surplus—which I emphatically do not—even a moderate degree of prudence would suggest waiting a few years to see whether or not the projected surpluses are actually occurring, meanwhile paying down debt. That would also be in plenty of time to deal with any concerns about the uses that might be made of the surplus after the debt is retired. The suggestion that tax cuts could be rescinded if projected surpluses don't materialize seems unlikely politically.

The political impetus in Washington is toward tax cuts and spending. Real progress has been made over the past decade toward a political mindset of discipline, but that is always highly vulnerable, and a very large tax cut is a significant step back to the political mindset that produced the deficits and quadrupling of the debt form 1980 to 1992.

The imperative for maintaining our fiscal discipline and not taking a risk of losing the current opportunity to retire the publicly held debt of the federal government is increased by the importance of putting the federal government in the best possible position to meet the Social Security and Medicare requirements of future generations, when the federal budget is projected to be in deficit again.

All of this is independent of the question of how best to use the surplus available on a fiscally sound basis. My own preference would be to divide this between debt reduction, a more moderate tax cut predominantly favoring middle-income and lower-income people, and special initiatives in important areas like education and health care. Others have different views. But we should all agree that it would be profoundly unwise to seriously risk the hard-won fiscal discipline that has brought so many benefits to our nation.

We have had a remarkable eight years after a far more difficult period, including a recession in 1990. We should learn from experience and stay with a landmark change in strategy that worked, not take the path that experience suggests posses a real threat to our economic well-being.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM), one of the outstanding Members of the House.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding me this time. I want to make it very clear that this side of the aisle has been in favor of raising the debt ceiling clean since at least March. We have made repeated offers. What we are not in favor of doing is increasing the debt ceiling with a blank check to continue to borrow money without changing our economic game plan.

I join with Chairman THOMAS in his opening remarks because it is in the same spirit that he referenced back to 1946 that we attempted to have an offer of an amendment today to lower the amount of debt ceiling from $450 billion to a $150 billion increase. That is exactly the same spirit in which was done in 1946. We asked for that to be made in order, but the rule once again denied the minority an opportunity to have a clean up and down vote on an alternative.

I do not understand why we continue to have the inability to have debate on issues as important as the debt ceiling is. I hope no one makes the argument that we are here as obstructionists. We are here today positively saying we will offer in the motion to commit—recommit, commit, whatever the new terminology is—this bill back to the Committee on Ways and Means with an instant recall at $150 billion so that we might have another look at the budget prior to the end of this fiscal year when CBO re-estimates.

It is fiscally irresponsible for this group, this House, to stand on this floor and increase by $450 billion without revisiting the economic game plan that we are under. Take a look at State after State after State in which governors are having to make tough decisions. Here we are no longer tax and spend, we are borrow and spend. That is exactly what this resolution will do. Those who vote for it today will be voting to borrow and spend another $450 billion with the exact same economic game plan that has gotten us into the problem that we are in today.

I do not understand this. I do not understand why, once again, the chairman comes on, and no one comes over and debates.

Where is the debate?

Mr. RANGEL. Where is the debate? Well, I guess it is all on the outside. I can understand the problem.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of the Committee on Ways and Means.

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

Mr. LEVIN. Mr. Speaker, Democrats will vote to raise the debt ceiling when there is a plan to reverse fiscal irresponsibility. There is no plan. The fiscal irresponsibility began right here in this U.S. House of Representatives under your majority, and now you try to shift the blame to the Senate, trying

to obscure the fact that the irresponsibility commenced right here.

We told you that the sheer size of the tax cut made all of your plan a risky gamble. We warned you the projections of future budget surpluses were not written in stone. As it turned out, they were written in sand, in substantial part because of your policies.

We have gone from surpluses as far as the eye could see to deficits as far as the eye can see. You are diverting Social Security and Medicare to pay for your tax cuts and other irresponsible programs. The majority has compounded its irresponsibility, as I have said, by tonight saying raise the debt ceiling without any plan to stem the red ink in this budget. It is another $450 billion that will come where? From Social Security and Medicare payroll taxes. You have no plan. All you are trying to do is to shift the blame.

This Congress is obliged to raise the debt ceiling, we are obliged to pay our debts, but we should not just write a blank check, which is what you want. We need a plan to stop this raid on Social Security and Medicare.

I urge my colleagues to vote ''no'' on this resolution, to vote ''no'' until you become fiscally responsible with the funds of our fellow and sister citizens.

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

They wanted to know where is the debate? I am trying to figure out what it is that I am supposed to debate. The gentleman from Michigan comes on the floor and says Democrats will vote to increase the debt limit. The measure in front of us is to increase the debt limit. But the gentleman then said he asked his colleagues to vote ''no'' on the resolution.

Which position are you supposed to debate? Yes or no? I find it interesting that if they knew last year prior to September 11 that we were going to have all of those problems associated with the tragedy around the 11th and the consequent commitment by this President to carry the war to the terrorists and they were prescient enough to know that the country was going to face that situation, gee, I wish they would have let us know that was going to happen. We could have taken some procedures and some steps that would have certainly been far more humane than what occurred.

I find that people who are more than willing to use hindsight as the reason for taking a position rather interesting when shortly they will also urge their colleagues to vote ''no'' on the Medicare package. Only this time their argument is going to be that we do not spend enough. We are only going to spend $350 billion.

The beauty of the Democrats' ability to debate is they are masters at compartmentalizing. Right now it is, ''You spendthrifts, we have to raise the debt limit.'' Several hours from now it will be, ''You cheapskates, you are not willing to spend enough to help the seniors.''

And they say, why are you not willing to debate? I am trying to figure out which Democrat I am supposed to debate. The one that is complaining the Republicans are spendthrifts and we have to raise the debt limit? Or the one who is saying, you are cheapskates, you are not willing to spend enough, $800 billion, to help seniors.

I guess the problem I have is that the gentleman from Florida (Mr. HASTINGS) in characterizing a Member several days ago puts me in exactly that dilemma.

Mr. Speaker, I yield the balance of my time and yield the control of the time to the gentleman from Texas (Mr. ARMEY), the majority leader.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the gentleman from Texas will control the time for the majority.

There was no objection.

Mr. RANGEL. Mr. Speaker, I yield to the distinguished leader. We were calling for debate. We did not know you were going to bring out the leader. We want to hear what he has to say about this since the chairman of Committee on Ways and Means is confused.

Mr. ARMEY. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentleman for yielding time.

I am a farmer. I think, just for the sake of being honest and not hoodwinking the American people, maybe we should get this, if you will, discussion out of the hay mound and down on the barn floor where we can chew it up seriously.

□ 1900

The fact is, maybe I would make an analogy that my family that I love went out and spend more money than they should and now the question is, do we pay that credit card bill? So, reluctantly, probably as one of the most fiscal Members of this Congress, I say, look, we have to pay our bills.

The problem has been on that spending. Let me give my colleagues an example. If we held the line on spending since President Clinton came into office in 1994 we would not have this problem today. That is not just Democrat control; it is the Republican control. There is an overzealousness to spend, and that is what we have been doing.

Let me give my colleagues this example. In 1998, we passed and executed a plan designed to balance the budget by 2002. That is what we promised in 1998. That budget projected fiscal 2002, this year's revenues, at just under $1.89 trillion. Actual revenues, even after the tax cut, were way in excess of that, according to CBO, and now are expected to come in over $2 trillion, or more than 5 percent above the projection. However, it was spending. Our projection in 1998 for outlays were under $1.89 trillion and are now expected to be $110 billion higher than we projected. It should be clear that it is spending.

Now, this tough question: I do not want to vote to increase the debt ceiling without some kind of a plan like every family has, like every business has, to say, look, we are going to borrow a little more, but we are going to have to pay it back sometime. How are we going to eventually pay it back so that we do not leave this mortgage to our kids?

Mr. Speaker, we have a situation where the $35 billion in increased defense expenditures and $6 billion expanded homeland are part of the problem. We have to deal with that national security problem. Let us pass this debt ceiling, but, likewise, let us move ahead and have a plan of how we are going to repay this debt so that we do not leave it to our kids.

Mr. RANGEL. Mr. Speaker, I agree with the gentleman. All we need is a plan.

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL), a member of the Committee on Ways and Means.

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me this time.

The gentleman from Michigan (Mr. SMITH) is precisely on target with his comments. During the 1990s, we understood the need to balance the budget. What was the result? It created the greatest period of economic growth in the history of the Nation. The chairman of the Committee on Ways and Means says, hindsight, it is easy. It is foresight that we undertook in the 1990s. We prepared for the rainy day; that was the whole notion: a national disaster, international conflict, a downturn in the economy.

That is why we do not understand a reckless $2 trillion tax cut. We should have been focused on the items that we might not have been able to control in the near or far future.

Unemployment has gone from 4 percent to 6 percent, the budget deficit is at $250 billion, and a Wall Street analyst said yesterday, the economy and the markets right now are in the midst of a full-blown corporate governance shock. Stock market numbers are down, the value of the dollar has dropped considerably, retail sales have dropped along with consumer confidence, and we continue right down this road.

Now here is the point that I find most focused tonight and the one that I think troubles me perhaps far more than anything else. There were Members on the other side of this body who were going to impeach Secretary Rubin, going to impeach him. Actually, the Committee on Financial Services in this House held hearings on impeaching Bob Rubin because of the debt ceiling question. They would not vote to raise that debt ceiling under any circumstances.

Tonight, the argument is, well, if we had better hindsight, it would be much

easier for us to undertake these sorts of initiatives.

The point that we have reached is because of the tax cut, and we have to focus on that issue, and we have to understand it and keep it in perspective. At the same time that we discuss this, American companies are allowed to sneak out of this Nation in a time of war in the dark of night to Bermuda to escape what they contend to be corporate taxes.

Mr. Speaker, $48 billion more, $38 billion more for homeland security. The chairman was mistaken. The problem is not hindsight; the problem is vision and foresight.

Mr. ARMEY. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Speaker, I am amazed that I am hearing talk over here about where is the Republican plan to get out of the predicament that we are in. The obvious question is, where is the Democrat plan? Where has it been? Where is the budget?

I sit on the Committee on the Budget. The Democrats did not have a budget in committee, they did not have a budget on this House Floor, and they have the nerve to come down here and say, where is our plan?

We put a budget together. We put a budget on this floor. We passed it on this floor. We have a plan. They may disagree with it, but they did not have the courage to put a budget on the floor and have an honest debate about it and have an honest vote about it.

Let me tell my colleagues what the plan would look like if we had one. It would be all about more spending, and they know that. I know they do not like tax cuts, but what they wanted to do with that money is they wanted to spend it. I have not been here all that long, this is only my fourth year, but each and every single time that we have had an appropriation bill on this floor, if we did not all agree, and on many we do, but when we did not agree, what was the objection on their side? It was always that it does not spend enough.

Well, let me tell my colleagues, we cannot spend our way into a deficit unless we are spending too much. And the Democrat plan, that I must infer, since they will not put one on the table, can only be that they want to spend even more money.

The Democrats also know for a fact that the big problem that we face is the result of an economic slowdown and a war that we are engaged in. The fact is, if it had not been for the tax cut that we passed last year, I do not know what kind of condition this economy would be in, but it would clearly be in much worse shape than it is in now.

Mr. Speaker, I urge my colleagues to adopt this measure.

Mr. RANGEL. Mr. Speaker, I did not want to embarrass them by saying we told you so, but since he asked for it, I yield 3 minutes to the gentleman from South Carolina (Mr. SPRATT), the distinguished ranking member of the Committee on the Budget, to tell them what our plan was.

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

Mr. SPRATT. Mr. Speaker, just 18 short months ago, OMB and Treasury both told us that there would be no need to raise the debt ceiling for at least 7 years, not until 2008. OMB told us that they foresaw surpluses coming that would total $5.6 trillion over the next 10 years.

A year later, when OMB sent up its budget, the budget that we are now working upon, it contained a simple pie chart. Look at page S–415. According to OMB's own pie chart, 40 percent of the surplus was a massive miscalculation. It did not take sufficient account of the economy; it technically was deficient. Seventeen percent of the surplus was wiped out by spending increases, much of it for defense, and 43 percent, 43 percent of the projected $5.6 billion surplus, according to OMB's calculation, had been wiped out by the tax cuts, or would be wiped out by the tax cuts enacted last June.

Mr. Speaker, this is the chart, this is the line on this chart right here, this blue line at the bottom, that we would have followed had we followed the budget resolution that we proposed, had we not taken the proposal that the Republicans made and that the President made. This, instead, is the chart that, the line that we are on, the red chart, that is additional debt. That is the bottom line.

This is a bar chart that shows us where we might have been with the publicly-held debt. We could have retired all of the publicly-held debt if we had husbanded our resources and earnestly tried to do it. We had that opportunity. We would have actually paid off most of the publicly-held debt; and, instead, we are going to accumulate $2.8 trillion in additional debt because of the budget that we adopted 2 years ago and still now are implementing.

That is why we find ourselves tonight in June, 2002, not June, 2008, but June, 2002, raising the debt ceiling by $450 billion. Many of us Democrats will not support this bill before us because last year in 2001 we proposed a budget.

Speaking of compartmentalizing, we had a budget. We proposed a framework for the budget, and we proposed to set aside in our resolution one-third of the surplus to be used for debt retirement until we had finally reached some agreement for making Social Security/Medicare solvent far into the future. We wanted to commit that extra third of the surplus for that purpose, and our Republican colleagues roundly rejected the idea. They passed a massive tax cut that left no room for error, and that is why we are here tonight slipping through in the space of 1 hour a $450 billion increase in the debt.

We believe that the Government has to meet its obligation, but we do not want to make the Treasury play games with our trust funds. Many of us on this side will vote for a debt increase of $150 billion. This allows us to meet our obligations to our creditors and at the same time meet our obligations to our children, passing a budget that gets us back in balance.

Mr. ARMEY. Mr. Speaker, it is with great pleasure I yield 4 minutes to the gentleman from Iowa (Mr. NUSSLE), the distinguished chairman of the Committee on the Budget.

Mr. NUSSLE. Mr. Speaker, I thank the gentleman for yielding.

First of all, there is nobody in the House of Representatives with more integrity when it comes to numbers on the budget than the gentleman from South Carolina (Mr. SPRATT), and I commend him for what he just said. Except there are a couple of things that he may have forgotten to mention and a couple of rest of the stories.

First of all, it is true that the Democrats last year introduced a budget plan. Of course, they did not have a majority. They could not even get a majority of their own caucus to support the plan, but, yes, some of them did have a plan. If that plan would have been adopted, not only would we be into Social Security this year but we would also be standing here on the floor today knocking up against the debt ceiling.

So you can say you had a plan and you can say that maybe your surplus projections may have been a little bit better, but do not tell us that you were not into Social Security and do not tell us that you were not knocking up against the debt ceiling.

That is last year. Now let us talk about this year. There is no minority plan. There were a couple of members of the Blue Dog Caucus that came forward with our budget with a trigger. So they took our plan, and there is a plan called the House Budget, which we passed in the House and which we have now deemed and which the President has accepted and which we are operating under and which we passed two appropriation bills today and which we will also pass a prescription drug bill later, that is operating in the House of Representatives and is operating for this Federal Government.

We have a plan. There is a challenge with regard to the plan, and I wish you would direct your attention to the other body which has nothing, no budget, no plan, no ideas on what to do. Yes, they rushed through a debt ceiling increase and put it over here and we will deal with it today, but when we talk about plans, you do have to at least smile a little bit, and I do see a few of you smiling, that you do not have a plan, and that is when we are talking about plans, the plan that is not there.

But there are a few Members with integrity who are coming to the floor today and putting forward ideas, their ideas for increased spending. There is going to be a prescription drug benefit

that is going to come forward from the Democrats a little bit later. It will be, and I think my colleague from the Committee on Ways and Means said earlier it was going to be somewhere in the $600 billion range. Folks, we are getting it scored; and my guess is it could be over a trillion dollars of new mandatory spending.

Oh, but do not worry about that. Let us compartmentalize that. Because we are going to deal with the Republicans and the debt ceiling today, even though we do not have a plan.

And then other thing that many Members with integrity come forward with, they say, you know what, that tax cut that we passed last year was too much, it was way too much, and so let us not do anything about that either except maybe roll it back. That is called a tax increase.

So the plan is foggy, but we are starting to see what the minority side is starting to come up with. It is called higher taxes and more spending, higher taxes and more spending. Now tell me how that plan does not knock up against the debt ceiling?

So I understand you can come to the floor today, and part of not governing means that you do not have to make a choice and you do not have to make a plan and that is fine. You get to have that luxury. But let us just recall history. For 40 years, this trillions of dollars that have been added to the debt were added to the debt by a Democratic-controlled Congress.

□ 1915

It was only over the last 5 years that that debt has started to be reduced. By almost half a trillion dollars that debt was reduced. I think that is a pretty good track record.

One other thing I would just mention, for those who predicted back in February that all this would happen. They have forgotten September 11. September 11 is why we are here. That is why we have to do this today.

Let us vote to increase the debt limit and be responsible about the plan to get us back into fiscal responsibility.

Mr. RANGEL. Mr. Speaker, I yield 15 seconds to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I ask unanimous consent to have made in order an amendment to this bill in the form of H.R. 4758, which is a plan to raise the debt and at the same time commit this Congress to balancing the budget again by the year 2007.

The SPEAKER pro tempore (Mr. SIMPSON). Under the Speaker's announced guidelines, the Chair will not recognize request to offer an amendment that would not be not germane to the bill.

Mr. SPRATT. I can ask unanimous consent.

The SPEAKER pro tempore. The Chair will not recognize for such unanimous consent requests.

PARLIAMENTARY INQUIRIES

Mr. STENHOLM. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. STENHOLM. Mr. Speaker, it is my understanding that by unanimous consent this body may do almost anything if we all agree, all 435.

The debate has been that we have no plan. The gentleman from South Carolina (Mr. SPRATT) offers a plan by unanimous consent. This seems to be or would be in order, unless there is objection from the other side.

The SPEAKER pro tempore. There are certain unanimous consent requests that require clearance from both sides of the aisle. Among those are a request for consideration of nongermane amendments to bills, which this would be.

Mr. STENHOLM. Further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. STENHOLM. Again, from the rules that the Chair is reading, this is what I thought I was interpreting, that by unanimous consent we may adjust a rule, if there is no objection from the other side. I hear no objection.

The SPEAKER pro tempore. These are the Speaker's announced and published guidelines for recognition of unanimous consent requests. The Chair will not recognize those unanimous consent requests that have not been cleared by both sides.

Mr. STENHOLM. Mr. Speaker, further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. STENHOLM. Mr. Speaker, I now inquire of the chairman of the Committee on the Budget if he would, by unanimous consent, agree, so that we might clear up the problems that the Speaker is having with this, what I consider to be, very fair request.

I have heard objection.

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

Mr. Speaker, I was smiling, as the gentleman recorded, because I had not seen the chairman of the Committee on the Budget since we lost the $4 trillion. Welcome back.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, we are debating tonight this bill because our fiscal house is in total disarray. After 8 years of shrinking deficits, and finally reaching one true surplus in fiscal year 2000, we have seen over the last months a deteriorating fiscal condition that has allowed us to be bumping up against the $5.95 trillion statutory debt ceiling, when we were told by Secretary O'Neill just a year ago we would not reach it until 2008.

The truth of the matter is that we need to return to fiscal responsibility. We need to stop raiding the Social Security trust fund. If any corporate executive in America raided the employees' retirement trust funds, they would be thrown into jail. Yet we are doing it tonight.

The truth is, the Democrats have laid out a plan. That plan has been introduced in the form of legislation. That plan says we will agree to a $150 billion increase in the debt ceiling immediately and no further increase until we have a plan to return us to a balanced budget by 2007, until we establish spending caps to control our spending, and until we strengthen and extend the pay-go rules.

That is the Democratic plan. That is what this House should be approving tonight.

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

PARLIAMENTARY INQUIRY

Mr. RANGEL. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. RANGEL. If the majority has no further speakers, is it possible they could give us their time, because we have a lot of speakers?

The SPEAKER pro tempore. The gentleman from Texas may yield his time if he wishes.

Mr. ARMEY. With all due respect, Mr. Speaker, I was advised by my daddy not to waste time.

Mr. RANGEL. Mr. Speaker, I did not hear what he said. If they do not have any speakers, we have a lot of speakers.

Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. Mr. Speaker, I thank my friend, the gentleman from New York, for yielding time to me.

Mr. Speaker, I rise in opposition to this bill. For every $100 the Federal Government is spending, we are now bringing in about $90 worth of revenue. The way we are making up the other $10 is to borrow it. Some of it comes from the Social Security trust fund, and the rest of it comes from the private capital markets. We have reached our limit, or we are about to reach our limit as to what we can borrow.

Logic tells us that what we ought to do is sit down and figure out how we got here. I think it is true that the terrorist attack had something to do with that, indisputably. I think it is true that the recession had a lot to do with it, indisputably. But the other side has to admit that the $2 trillion tax cut that they recklessly put through this House last year also has got something to do with it.

The two parties ought to come together, discuss the alternatives, extend the debt ceiling tonight by an amount necessary to cover us during that period of time, and put our house back in order. That is a reasonable, sensible approach, which is why the other side will not let it get to the floor.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. MATHESON).

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

Mr. MATHESON. Mr. Speaker, I thank the gentleman from New York for yielding time to me.

There is no question that circumstances have changed from where we were a year ago. We acknowledge that we have this war on terrorism. We have homeland security concerns, so the situation has changed.

We ought to change the way we are figuring out what we are doing about the budget. If we have to go borrow more money from a bank to buy a car or a house, we have to tell the bank a story about how we are going to pay them back. That is just common sense. But we do not have that story here. We are not telling people that story. We are telling the American people we want to borrow more money that is going to be on their backs and the next generation and the next generation, with no story about how we are going to pay it back.

So let us all agree that the situation has changed. Let us all agree that we have a tough job ahead of us. Let us roll up our sleeves and work together and come up with some kind of plan on a going-forward basis to put us back in a position of fiscal responsibility.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT), a distinguished member of the Committee on Ways and Means.

Mr. DOGGETT. Mr. Speaker, it was only a few months ago that Republicans were telling us we would not need to touch this debt ceiling until 2008, and frigned concern that we would probably pay down so much debt that we would hurt the economy.

Well, we know that in the meantime much has happened, but one of these developments is the impact of one tax break after another for their wealthy Republican friends and another is that corporate tax abuse has been totally ignored to the extent that some corporations in this country actually have the arrogance, at a time of national security need, to renounce their citizenship, move their mailbox to Bermuda or some other foreign island, and evade their United States taxes at the same time our deficits continue to mount.

It is not just a spending issue, though there have been plenty of spending bills in this House that I have voted against. A loss of tax revenues also contributes to the deficit and a total disinterest and disregard for this aspect of the problem by the Republican leadership.

I do not believe there is a carpet big enough to sweep underneath all the mess that Republicans have made of our budget. After a few years of paying down the deficit, when Americans enjoyed the benefits of lower interest rates to purchase homes and cars, we now face a return to years of one deficit after another. How incredible that at the offer of a unanimous consent resolution to at least say, can we not agree in a bipartisan fashion that by the year 2007 we will be off this deficit financing and we will have a balanced budget, their answer is no; to object, to refuse to consider a commitment to having a balanced budget by at least the year 2007.

We do have a default issue tonight, not about the debt. Rather it is a default in leadership; it is a default in responsibility. We have heard so much talk lately about intelligence failures, but one of the most obvious is the inability to grasp that when the elite do not pay their fair share, like these corporations that are heading offshore, the rest of us have to pick up the tab.

Then Republicans come, as they are tonight, and ask to use our Social Security cards as their credit card for more spending and more tax breaks.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I want to thank the gentleman from New York (Mr. RANGEL) for yielding time to me, and also for his great friendship and leadership.

Mr. Speaker, we have heard the other side come to this floor this evening and talk about this debt as if we did not have good sense over here.

Now, if we are doing so good, Mr. Speaker, how come we are broke? I just do not quite understand that. It is like we did not have enough sense to tell the difference between turnip greens and butter beans.

If we are doing so good, if this plan that the gentleman from Iowa kept referring to a while ago is working so well, how come we are broke? How come we need to borrow another $450 billion, not from ourselves, but from our children and grandchildren, for crying out loud?

Who in their right mind would want to do something like that? Why would we want to come to this floor and borrow another $450 billion from our children and grandchildren and have no idea how we are going to pay it back?

Mr. ARMEY. Mr. Speaker, for a refreshing change in pace, I am more than pleased to yield 4 minutes to the distinguished gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, when I was elected in 1987, I had one big desire: to get our country's financial house in order and to balance the Federal budget. That was my desire. I did not feel I really had an opportunity to really have an impact on that until John Kasich came and started offering amendments to cut spending in 1989, and more and more of us started to join with him.

Then in 1994 a major change happened: Republicans had an opportunity to lead this House and to try to get our country's financial house in order. We did that by 1997, and in 1998 we ended deficit spending. In 1999 we ended using Social Security reserves. That happened. That is a fact. It was a bipartisan effort.

There are times I voted to increase the national debt, and there are times I voted not to. But when I hear a colleague who has pushed the farm bill so hard talk to us about not increasing the deficit, I think, did that not contribute to increasing the national debt? Is that not a part of spending? When I see some of my colleagues who voted for the defense budget, did that not help increase the national debt?

Now, I also voted for the tax cut. So did a number of Democrats. When the Senate had a chance to repeal the tax cut, only three of them wanted to repeal it. Now, I was uncomfortable when we had a debate to increase the national debt, and it was kind of put into something else. I heard my colleagues say, let us have it clean. So I asked my leadership, and others did, as well, let us have it clean.

There were some who said the $750 billion increase, as the President proposed, is simply so high because it might push us beyond even the election of the President. So when there was an effort by Senator DASCHLE and Republicans jointly to come in with $450 billion and to have it clean, I pleaded with my House leadership to just take it right off this desk and send it to the President. That is what we have an opportunity of doing.

I really think, and I know why my colleagues on this side of the aisle are tempted to do it, there are things they do not like, and this is a way for them to illustrate their contempt, their anger, all the things that are pent up.

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I just cannot imagine you would do it on this issue, not on this issue. I cannot imagine that we would tomorrow risk the fact that this may not pass. And, you know what? It may not pass. Maybe you will succeed in getting some Republicans, a few, to vote against it, and maybe my Democratic colleagues will convince the rest of their conference to make a political game of this. In the end, we are simply pushing another debate on this until February, 2003, the next Congress. Maybe the Democrats will be in charge. Maybe the Republicans. But we will have to wrestle with this issue.

But for me there is no question. I voted for the tax cut. I did not vote for the farm bill. I thought the farm bill was an outrage. I think it kind of sent a message that is unfortunate. I voted for the defense bill. I voted for the 9–11 costs. So in the end when you see the votes go up and if my Democratic colleagues are successful in convincing most of their colleagues to vote against this and this goes down, I think tomorrow people will know where the problem is.

This is Senator DASCHLE's bill. It is a Democratic bill in the Senate that we have an opportunity to take off this desk and pass it, and any alteration to this sends it right back to the Senate.

I sincerely hope my colleagues remember, if they voted for the farm bill, that they have some obligations. If they voted for the defense bill, they have some obligations. And the tax

cuts which my colleagues are concerned about really have not taken effect. They have come in years in the future. But the one thing that did take effect was the $300 or the $500 or the $600 payment. The Democratic proposal. Thank God. Because as we went into this recession more spending and tax cuts have made this recession less. So I salute my colleagues for making this recession less by spending more and making the debt ceiling increase necessary.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. TANNER), a member of the Committee on Ways and Means.

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

Mr. TANNER. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me time.

I personally do not care whether it is a Democrat or Republican bill. What we have got in this country is a $6 trillion debt. We are paying a billion dollars a day interest, and all we have asked for is a plan of some kind to get us out of this hole before we pass another $450 billion authority to borrow money. If anybody thinks that is unreasonable, I would like to debate that point. There is not a business or a family listening tonight anywhere in this country that would run their own business like we are running the Nation's business, borrowing another $450 billion with absolutely no plan.

The plan we are operating under does not balance for the next decade without using Social Security trust funds. Now, if anybody can convince the American people that that is a reasonable approach to this Nation's financial problems, I would like to talk to them because it is absolutely, I tell you what you can do. You can bamboozle people a little while, but the American public is not stupid by any stretch of the imagination, and they know that year after year of red ink is sooner or later going to catch up with us and with our children.

I will tell you something else. The most insidious tax raise, tax hike in the world is borrowing money because you pay interest year after year after year, today a billion dollars a day in interest because our predecessors and us did not have the fortitude to either cut the programs we do not like and do not need or to raise the revenue for the ones that we do. That is where we are. This is shifting responsibility, and it is a generational mugging.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I have got right here in front of me, it took me 5 months to compile this, I have got the votes of every one of the Democratic leadership, every single time, from the gentleman from Missouri (Mr. GEPHARDT), the gentlewoman from California (Ms. PELOSI), the gentleman from New York (Mr. RANGEL), the gentleman from Maryland (Mr. HOYER), right on down the list, every single time that you voted to take 100 percent of the money out of the Social Security trust fund.

For 40 years your budgets used money out of the Social Security trust fund. When I came here, we had $5 trillion of debt. The gentleman just said, and he is right, not quite a billion dollars a day but almost a billion dollars a day we pay on the interest when we came here.

Now, if you pay down $500 billion it does not take a mathematician to figure if you are paying a billion dollars a day and there is 365 days in a year, you will end up with a lot more billions of dollars. And it keeps going up, and it keeps going up because you cannot pay it down.

I heard the gentleman from Missouri (Mr. GEPHARDT) every single day when I was on the floor in the minority come in and talk, oh, the lady in the red dress. I am sorry. We need a middle-class tax cut. But in 1993, when you had the House, the White House and the Senate, you could not help yourselves. You increased the tax on the middle class. You increased the tax on Social Security. You took every dime out of the Social Security trust fund. You cut veterans COLAs. You cut military COLAs. You called it a deficit reduction plan.

But yet when Republicans came we eliminated that Social Security tax. We gave a middle-class tax cut. And our policies, not one single Democrat bill or budget, not one Democrat budget from the President ever passed. As a matter of fact, Republicans brought up your budgets to show how bad they were.

And for you to get up here and day after day talk about tax breaks for the rich, I talked to some of my colleagues. I said, what are you talking about? You know that is not true. And they said, it is gamesmanship. You lowered the bar too low in this House.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY), a member of Committee on Ways and Means.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me time.

There is a lot of partisan finger pointing, name calling, creative history interpretation. That is not going to get us anywhere. We have a problem on our hands. If we were a family running in the red we would sit at the kitchen table and figure this out. And the answer is not going to be, I got it, let us go to the bank and get the biggest line of credit we possibly can and let everything go the same.

That is what the majority is proposing tonight. They are proposing simply to increase the line of credit and keep on borrowing. Let the wagons roll.

We have to do different than that. We have asked, as we consider this motion, for an alternative to be considered one that would allow the debt to increase through the period of August, avoid any default on obligations of the government before then but require a plan, a plan to come before us to get us to a balanced budget in 7 years.

Let us not talk about partisan antics in the past, Republican or Democrat. Let us together agree. We need a plan. We need it now. And that is what we asked for with the substitute.

I could not be more dismayed that there was an objection and it will not even be allowed to be considered. Because this plan, this strategy of going up with the kind of debt increase they are looking at is the height of irresponsibility. In the next decade, 78 million Americans will turn 65; and the tap each will bring on Social Security and Medicare will strain the Nation's resources in a way it was never strained before.

What we need to do this decade is pay down the debt, not add to the debt. We are leaving for our children a crushing financial burden, if we, now that it is our time in control, and the baby boomers are in the workforce in full force, do not pay our way but merely run up the debt. So we ask the majority for a plan, a plan to be resolved in August of this year before the election, not swept under the rug, not kicked into next year, but now. How are we going to pay our own way?

We were not paying our own way now. That is why you have sought the debt increase. This is ultimately taking money coming in from Social Security and spending it on other government programs. Our children will pick up the tab. It is wrong. Vote this down.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman from Texas (Mr. ARMEY), the distinguished majority leader for yielding me time.

I rise today as a conservative Member of this institution, Mr. Speaker. I did not come here to increase the government's debt. I came here believing, as so many people I represent believe, that if you owe debts, pay debts.

I spoke to an elderly woman on a radio program in Richmond, Indiana, today in the heart of the heartland district that I represent. Mr. Speaker, she said with fear in her voice that she was worried that a conservative like me would not support raising the debt ceiling and would put at risk her Social Security check. She assumed that my loathing of red ink would cause me to vote in such a way or fail to act in such a way that it would jeopardize her benefits and the benefits of people that she loves.

Well, I assured her then and I rise today to assure all of those that are listening, Mr. Speaker, that I will not do that. I truly believe if you owe debts, pay debts. I am a member of a majority in this institution that has repaid the national debt nearly a half of a trillion dollars. We have balanced

the budget last year, adopted a plan to actually redeem all of the public debt over the next decade. We were on track, Mr. Speaker, to meet that goal, even after the President's tax cut was adopted.

And then, though it is convenient tonight to forget it on the other side of the aisle, that a recession struck America; and then, of course, as we all experienced here, the devastation in New York City and at the Pentagon. 9–11 struck and hundreds of billions of dollars that the CBO and the OMB and every independent organization in America predicted would be there was no longer there.

The result is that our government now needs to keep its promise to the American people, to all of various entitlement programs, but maybe most especially the program that that elderly woman asked about this morning.

We must raise the statutory debt limit. The truth is they have no budget. They have no credibility on debt reduction. They have no plan to guarantee the full faith and credit. They have no plan for that little old lady in Richmond, Indiana.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to my friend from Kansas (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me time.

Mr. Speaker, I speak in opposition to the bill on the floor at the present time. Kansas families live by three simple rules. Number one, do not spend more money than you make. Number two, pay off your debts. Number three, invest in basics in the future.

The basics for our country are national defense, Social Security and Medicare, a highway system, things we all would agree on. The basics for a family are food, shelter and education, health care, things, again, we all would agree on. And yet in this Congress, in this Congress, after we got our budget back in balance, we started down the wrong road again.

Now I do not blame anybody in this Congress for a recession. I do not blame anybody in this Congress for what happened on 9–11 and certainly not the President. And I voted for tax cut, so I do not blame anybody for that as causing the problem we are in. But I think we need to move back to fiscal responsibility.

Initially, Secretary O'Neill asked for a $750 billion increase in the debt limit. I think that is an outrageous blank check to give to this Congress. Now they are asking for $450 billion dollars. I think the appropriate amount is $150 billion and move to a plan to get us back to balance. Just to work together, Republicans and Democrats, to get us back to balance.

Mr. ARMEY. Mr. Chairman, how much time is remaining?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. ARMEY) has 7½ minutes remaining. The gentleman from New York (Mr. RANGEL) has 5 minutes remaining.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding me time.

I did not plan to speak on this at all. I was up in my office and could not help but, watching some of the proceedings, I could not help understanding that there is something amiss here to have people, individuals on the Democrat side of the aisle who have voted for nearly every spending program that has been put up, who vote for the airline bail out, who vote for the farm bill, who vote for the education bill, spending bill after spending bill, none of which I voted for and yet I am over here saying to vote for this bill.

Now, how can somebody spend like a drunken sailor and then all of a sudden find religion when it comes to raising the debt limit? This is just like eating a big meal and walking out on the bill. There are only a few people in this House who could in good conscience vote against this bill, and they have spoken. And to see this display of people standing up and saying, we cannot raise the debt limit, that is not responsible, after voting to spend and spend and spend, it is just more than I could take. So I had to come here and talk about it.

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Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Speaker, I thank the gentleman for yielding me the time.

We have heard the debate tonight. There is one question that lingers. Where are the fiscally responsible members of the Republican House of Representatives? So many of my colleagues campaigned, as many Democrats did, on the virtues of the balanced budget and paying down the debt.

The plan that has been outlined here tonight that was offered as an amendment in the Committee on the Budget by me and others addresses all the concerns that have been expressed. It gives discretion for us to spend some money on security. It allows time to get back to a balanced budget and paying down the debt.

On September 11, thank God we had economic security. We had a balanced budget. We were on our way to paying down the debt. It kept us strong. It keeps us strong. We could not ignore that. We need to get back to it.

The arguments my colleagues make about tax cuts would be better arguments if we did not have the debt in the trillions of dollars, over $4 trillion. The interest payment 2 years ago on that debt exceeded more than we spent on Medicare every year. Now a number of us are worried about the health of the economy.

If we continue down this path without adopting the plan that has been advocated tonight, we will start to drive interest rates up again and we will really be in trouble. I urge rejection of this bill. Let us adopt the plan.

Mr. ARMEY. Mr. Speaker, I have one speaker left. I reserve my time.

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

At the appropriate time the minority would hope that common sense and fairness would allow us to send this bill to the Committee on Ways and Means and have it reported out the right way with the right amount of increase in the debt.

Mr. Speaker, it is my great honor to yield the remaining time that is left to our distinguished leader from Missouri (Mr. GEPHARDT) in order to close this argument on behalf of the minority.

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

Mr. GEPHARDT. Mr. Speaker, I rise to urge Members to vote for the motion to commit, which will be presented in a few moments, and if that motion to commit is not passed, I urge Members to vote against the bill.

The power to budget and to pass economic plans carries with it the responsibility to, if it is necessary, raise debt ceilings to accommodate the budget, the economic plan that we are operating under. The economic plan we are operating under is one propounded by the President and the Republican majority in the House. That is their prerogative and that is their right. There was not real collaboration on that plan. There was no need for that collaboration. That also is their right.

If that is the plan that is in place and that plan now leads to deficits and spending Social Security dollars against everything that we said together that we did not want to do because we passed the lockbox at least five times, then it seems to me it is incumbent upon the people who propose that plan to vote to increase the debt ceiling to accommodate the results that that plan has caused.

I have said many times that I would vote tonight or anytime to raise the debt ceiling by $150 billion. I use that amount because I think it is sufficient to buy us a couple of more months' time to try to work out a bipartisan budget that will begin to move us back in the right direction, because I think that is what we ought to do.

I have said to the President that we should have a negotiation, we should have a summit, we should have a meeting, a bipartisan meeting, to try to work out a new budget for our country. I know we cannot get everything we want, and I know that the other side cannot get everything they want; but we had a tragedy in this country on 9–11 that no one anticipated. My colleagues can bet that every family who lost somebody on 9–11 has had a budget conference around their dining room table to come up with a new budget, given the fact that many of them lost their breadwinner or winners on 9–11.

Just as those families suffered tragedy on 9–11, the American families suffered a tragedy on 9–11; and as many of us argued when the budget was on the floor, we should take care of those contingencies if they happen. Well, if 9–11 is not a contingency that happened, I do not know what is. We are faced with a hole in security responsibilities. We are faced with fighting a war in many countries abroad. If that is not a new contingency, I do not know what is.

As an American family, Democrats, Republican, Independents, whatever, we are all Americans tonight; and we ought to be sitting around a table in these next 2 months working out a new budget for America that does not lead us back into all these deficits and spending Social Security dollars that all of us together said we did not want to do.

So in the name of common sense, I ask that we come together tonight. We could get 435 votes to pass $150 billion increase in the debt ceiling and move this country back into a budget that will be good for all Americans at war, fighting for our country, fighting against terrorism, and fighting for American values.

I urge my friends on the other side of the aisle to vote for the motion to commit and let us get back to an American budget that is good for all the American people.

Mr. ARMEY. Mr. Speaker, I yield myself the remaining time.

I have here a letter from the Concord Coalition, a nonpartisan group of distinguished American citizens who concern themselves daily with such matters as balanced budgets; and according to the Concord Coalition, it says that ''it is clear that the debt limit must be increased. The Senate has acted and now it is up to the House. Republicans and Democrats alike should put the Nation's creditworthiness ahead of political considerations.''

The Concord Coalition goes on to say that ''the House must be prepared to act on a stand alone debt limit increase in time to avoid a crisis.'' It also calls upon us to be nonpartisan or bipartisan.

Mr. Speaker, what in the world could possibly be more bipartisan than to have the Republican majority leader of the House of Representatives schedule for debate and a vote a Senate-passed bill that is authored by the Senate Democrat majority leader? The head of the Democrat Party, the highest-ranking Democrat in America wrote this bill. What could possibly be more bipartisan than the tribute we Republicans are standing here paying to the distinguished leadership of the gentleman from South Dakota, the head of the Democrat Party?

Mr. Speaker, irony of ironies, the gentleman from South Dakota's own party's leadership in this House stands here in militant opposition to the head of their own party's plan to raise the debt ceiling. What are we to make of this partisanship? A party turning upon itself in defiance of the Concord Coalition. What are we to do?

Mr. Speaker, we have before us Senate bill 2578 authored, as I have said, by the highest-ranking elected Democrat in America today, the Senate majority leader, Senator DASCHLE from South Dakota, a bill which when brought to the floor in the other body was passed with a vote of 37 loyal Senate Democrats and 31 thoughtful Senate Republicans. What a bipartisan effort that was. Was it not applauded by even The Washington Post for the spirit of bipartisanship?

Every author of bipartisanship in America stood in reverence at the action in the other body, for the collegiality around the Senate Democrat leader's plan, and yet we bring it to this floor and it is mocked, mocked by members of his own party. Oh, be still my heart. What am I to do with this? What can we say?

Are there 37 brave Democrat souls in this body, loyal to their own party's leadership, afflicted with affection for the gentleman from South Dakota who will stand up and say to the Concord Coalition count me in, I am with my leader, I will vote for Senator DASCHLE's plan? Are there 37 brave souls in this body? Oh, I pray, Mr. Speaker, I pray that they will present themselves.

Let me say, Mr. Speaker, how disappointing it is to see the rejection of that leadership by a bill offered as a motion to commit, in the form of a bill offered by a small band of Members of the Senator's own party who do not even claim to be in the mainstream of their party. These Blue Dogs are treacherous. They are treacherous, Mr. Speaker.

I prevail upon my friends from the other side of the aisle. Look at the example that came before you from the other side of the building. Check the record of how your own, very own Democrat Senator voted. Please vote with him. Save yourselves the embarrassment of having to go home and answer this question at your local party gathering. Do not put yourself in a position where some wonderful lady who has labored in your party for years looks at you with horrified disappointment in her eyes and says why did you vote with that small band of renegades in our party and against the plan offered by our distinguished party leader, the majority leader of the United States Senate, the distinguished Senator DASCHLE?

I cannot believe it. There are times when every party must call upon their own rank and file, men and women of the cloth on the Democrat side of the aisle. Stand by your man. This is your opportunity. Do what is good for America; and oh, yes, those of you in the press, please report my gallant effort to stand here in this well today and defend, yea, defend the good-faith offering of the highest-elected Democrat in America from this unconscionable assault perpetrated against him by, yes, members of his own party. It saddens me to no end.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would remind Members that it is not in order to cast reflections on Senators.

Ms. SLAUGHTER. Mr. Speaker, I rise in strong opposition to S. 2578, legislation to raise the debt ceiling by $450 billion without engaging in a real debate on how to get our nation's fiscal house back in order.

Mr. Speaker, before the House signs off on permanently raising the debt ceiling to $6.4 trillion, I think it would be helpful to take a step back and look at how we got here. It was not September 11th or the war on terrorism or even last year's recession that caused this predicament. Months before the impact of September 11th was realized in the budget, U.S. Treasury Secretary Paul O'Neill asked Congress to raise the debt limit by $750 million in response to deepening deficits that resulted primarily from the President's tax cut. By the Administration's own estimates, last year's tax cut—the one that I cautioned ''left no room for error''—is responsible for 43 percent of the total deterioration in our fiscal picture.

So, here we are today, being told by the majority that if we vote against S. 2578, we are being irresponsible. Well, isn't that the pot calling the kettle black? Under their watch, our budget experienced the most dramatic reversal in history, losing $4 trillion in projected surpluses in one year. To my mind, permanently raising the debt ceiling in the absence of a plan to get us back to surpluses is the epitome of fiscal irresponsibility.

Mr. Speaker, last year, the majority's budget asserted that there would be no need to increase the debt limit until 2009. But here we are, poised to consider legislation raising the debt ceiling to $6.4 trillion without being given a chance to offer a plan. Mr. Speaker, it is disgraceful that the majority has decided to block debate on a credible plan to address the short-term crisis and undo our present fiscal mess. My Democratic colleagues, Representatives SPRATT and MOORE, sought to offer a measure that would immediately increase debt limit by $150 billion with the requirement that the President submit a revised budget that is in balance by 2007 without borrowing from Social Security. Regrettably, Mr. Speaker, this reasonable alternative never saw the light of day.

Mr. Speaker, I am simply unwilling to write the federal government a virtual blank check that may or may not keep us in the black until the midterm elections in November. Mr. Speaker, every day, Americans pay $1 billion in interest on our national debt. That's about 16 cents of every dollar they pay in taxes—just to make the interest payment, not even to pay down the debt itself. Moreover, the indirect costs of raising the debt limit and the return to deficits prevent long-term interest rates high for Americans struggling to make mortgage, car, or credit card payments, even as the Federal Reserve has dramatically reduced short term rates.

Mr. Speaker, I urge my colleagues to join me in rejecting this measure and forcing the Republican Leadership to work with the minority to develop a real plan to deal with the deficits that now stretch as far as the eye can see. Until we have a realistic budget that

eliminates those deficits, increasing the statutory debt ceiling is pure folly.

Mr. BLUMENAUER. Mr. Speaker, the Treasury Secretary made it clear weeks ago that Congress would have to increase the federal government's debt ceiling. Since that time, many of us have been requesting an open debate on a bill to increase the debt ceiling.

How can the Republican leadership explain the debt ceiling increase added to the debate of the military construction appropriations bill by way of a procedural hijacking? This legislative ambush blocks any amendments from being offered, including the Democrats' intent to limit the increase to $150 billion as opposed to the Republican's increase of $450 billion.

I am ready to assure the debt limit is sufficient to meet our obligations, however, I vote against this measure because this chamber and the American people deserve that we conduct business of this manner with a full debate and consideration of reasoned amendments that will clarify a blueprint for fiscal responsibility.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 462, the Senate bill is considered as having been read for amendment and the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

MOTION TO COMMIT OFFERED BY MR. MOORE

Mr. MOORE. Mr. Speaker, I offer a motion to commit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MOORE. In its current form, yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to commit.

The Clerk read as follows:

Mr. MOORE moves that the bill S. 2578 be committed to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following.

SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking ''$5,950,000,000,000'' and inserting ''$6,100,000,000,000''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kansas (Mr. MOORE) is recognized for 5 minutes in support of his motion to commit.

Mr. MOORE. Mr. Speaker, the majority leader is leaving this Congress at the end of this term, and he might have a career as a comedian, but this is a very, very serious matter.

Tonight, we are talking, Mr. Speaker, about raising the debt limit of this country. We are, at present, approximately $5.9 trillion in debt. Certainly nobody in this body wants to see the United States of America default on its financial obligations. That will not happen. That is not an option.

But the majority leader has not provided all the information from the Concord Coalition, because I want to quote from their letter. ''An increase of roughly $250 billion would be sufficient for now without providing a blank check.'' And yet they are asking, the majority leader is asking for $450 billion. We are offering $150 billion, and I think that is sufficient.

If we spend further, we are into Social Security and Medicare, and the people of America need to understand that, Mr. Speaker. That is wrong. We can come together and come up with a plan to meet the obligations of this country without invading Social Security and Medicare.

Mr. Speaker, I yield to the gentleman from South Carolina (Mr. SPRATT), the ranking member of the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, we are not trying to stop an increase in the debt ceiling. Here is what we are trying to stop.

This year, in the most dramatic fiscal reversal we have seen in the time many of us have served in this House, our budget will be in deficit to the tune of $320 billion. Next year, according to our best calculation, our budget will be in deficit by $373 billion. Over the next 10 years, by $2.785 trillion. That is what we seek to stop.

If my colleagues vote for the bill instead of the motion to commit, what they will be voting for is fiscal denial instead of fiscal discipline. They will be voting for a little absolution, a ticket past the next election, a ticket past the next budget resolution, but we will simply put off dealing with this problem, this serious problem, this dramatic reversal.

We wanted to present a plan that would have allowed the budget to be increased by $150 billion and then another $100 billion without any obstacle. But, after that, we could only increase it if we had in place a budget that would be back in balance by 2007. That is what we really seek.

In the absence of being able to offer that plan, what we offer instead is the closest thing to it, an increase in the debt ceiling of $150 billion which will bring us back to this problem which we will have to address but will allow us to keep to our obligation to our creditors and, at the same time, allow us to keep our obligation to our children and not leave them burdened with overwhelming debt.

Mr. MOORE. Mr. Speaker, I yield to the gentleman from Texas Mr. STENHOLM.

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

Mr. STENHOLM. Mr. Speaker, I want to begin by congratulating my Republican colleagues for tonight voting to borrow the money to pay for their policies. I am disappointed, though, that they did not come to the floor with the same enthusiasm defending the vote to borrow the money that they did when they passed the policies that put us into debt. With the exception of the majority leader; his enthusiasm for borrowing $450 billion is unprecedented.

The need to increase the debt limit is not the result of September 11. In fact, the Secretary of the Treasury came to us last August predicting that we were going to have to borrow money when we were looking at the economic game plan that we were under. We agree on this side unanimously, well, almost unanimously, that we need to increase the debt limit by $150 billion tonight, and we will get over 400 votes to do it. What we object to is providing a blank check to borrow $450 billion to stay on the same economic game plan.

Now, my friend from Arizona made the comments about the spending. I would point out that every single spending vote this year that has occurred has come under the Republican-passed budget that we supported in the Blue Dogs but that my colleagues would never allow us to have the trigger on. So do not blame us for the spending when it is the Republican budget that we are spending to. In fact, we agree that we should not increase spending more than the President has asked us to spend.

That is not the issue tonight. The issue tonight is whether or not we are going to have a new economic game plan or whether we should borrow $450 billion with a blank check to continue spending.

Now, I am perfectly willing to roll up my sleeves in a bipartisan way and work with the majority if they would just let us. But we will have a pharmaceutical bill on the floor later tonight in which we will be denied an opportunity to vote on. My Republican colleagues denied us an opportunity to have the Hill bill, the Moore bill on the floor today, and yet the chairman said a moment ago, where is the debate?

I have been begging my colleagues to debate me on whether we should borrow $450 billion or $150 billion. When we vote for the bill, we are borrowing $450. We could do it at $150 and be fiscally responsible. That is the issue. Vote for the motion to commit.

Mr. NUSSLE. Mr. Speaker, I rise in opposition to the motion to commit.

Mr. Speaker, I cannot help but recall the minority leader's comments when he said there was no collaboration, that there was no discussion, that there was no working together.

I seem to remember a lot of working together, a lot of collaboration that got us to this point. I seem to remember a number of late-night meetings in September, when, in a bipartisan way, we decided to reach into that surplus, and there was not much left, but to reach into that surplus and take money and deal with the emergency. I seem to remember a bill that we voted on nearly unanimously to pay for a war against terrorism. Bipartisan. We reached in another time and did the same thing. I seem to remember a bill that came to the floor in a bipartisan way that said, you know what, that

pre-attack recession has gotten worse and we need an economic stimulus.

So let us reach in there again and let us make sure that we deal with the economy the way we did with the war and the way we did with the emergency.

Now, all of a sudden, the minority leader rushes to the floor and says, gosh, there was no collaboration, no one talked to us, no one consulted us. Now we need a plan all of a sudden. We have had a plan: It is called deal with the circumstances that were dealt last September. That was our plan. And we did it together. We did it together.

So tonight we have to do together what the other body did with the Senate Daschle bill, and that is to increase the debt limit to deal with the cards that we were dealt.

Now, if my colleagues want a plan, present one, but do not come down here and blame the tax cuts without having the courage or the guts to give us a plan to raise those taxes back up again.

And, no, I will not yield, because I am tired of my colleagues coming down here and demagogueing tax cuts and not having one ounce of guts to tell us their plan to increase those taxes back up. No, I will not yield, and I will not yield to Members who come in here and say, oh, gosh, but you are doing all the spending, when tonight my colleagues' bill on prescription drugs will be three times the bill that we offer on prescription drugs.

The applause is there, but where is the guts to vote for the increase in the debt ceiling to pay for it? That is called tax and spend, and we have seen it before. We are not going to allow it again.

Mr. Speaker, I yield to the gentleman from Texas (Mr. ARMEY), the distinguished majority leader.

Mr. ARMEY. Mr. Speaker, when we come down to the final analysis, we have before us a bill authored by Senator DASCHLE, the highest-ranking elected Democrat in America; and in the judgment of the Senator, $450 billion was the right compromise between what was asked by the Secretary of the Treasury and what others might have proposed to him.

Thirty-seven Democrat colleagues agreed with the Senator as they passed this bill to the House.

POINT OF ORDER

Mr. SPRATT. Mr. Speaker, I object to the references to the other body, when the Chair has previously advised the other side that it is improper to refer to action in the other body in support of the motion and which they are supposed to argue otherwise independently against.

The SPEAKER pro tempore. The Chair will remind all Members not to characterize the position of a Senator on a legislation issue.

Mr. ARMEY. Mr. Speaker, if we were to amend this substitute, something else for what the other body has sent us, it would go back to the other body and then we would be up in the air again. There is so much that would be left to uncertainty: the difficult financial gymnastics of the Secretary of the Treasury, already beleaguered by our delay.

It turns out that the $450 billion increase in the debt limit is exactly the same increase that we passed in 1997 at the request of the then Democrat administration, President Clinton; and, having done so, we found ourselves free to not revisit this issue for 5 years. Five years.

POINT OF ORDER

Mr. RANGEL. Mr. Speaker, I object to the gentleman characterizing the ex-President of the United States of America, President Clinton, who actually brought about the surplus that we used to enjoy.

The SPEAKER pro tempore. The gentleman's objection is not well taken.

Mr. ARMEY. Mr. Speaker, as I said, in 1997, we passed a debt limit increase of $450 billion at the request of the President that was in office at that time. It lasted for 5 years that we did not have to revisit this issue. That was a good thing. Because for several years prior to this majority taking over the House, we did not revisit it in the House because we had something called the Gephardt rule. That rule said the House never had to deal with these issues; they would just be done automatically. That was comfortable, but it did not in fact give us this wonderful opportunity to rejoice in this.

Well, what was my point? In 1997, we passed a debt limit increase of $450 billion, exactly the request that has been sent to this body by the other body, authored by the majority leader in the other body, voted for by 37 Members of the other body, and that will take us perhaps for a while.

This substitute that my colleagues are being asked to vote for guarantees us the right to come back and deal with this issue in September or October. We will be guaranteed the right to do this again.

Now, I just do not believe we have got that many more entertaining speeches left in us.

I say vote against the substitute, the motion to commit, and vote for the Senate majority leader's bill.

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion to commit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MOORE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to a minimum of 5 minutes the time for any electronic vote on the question of passage of the Senate bill.

The vote was taken by electronic device, and there were—yeas 207, nays 222, not voting 6, as follows:

[Roll No. 278]

YEAS—207

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wynn

NAYS—222

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Condit
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart

Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
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 (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
Paul
Pence
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
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Wu
Young (AK)
Young (FL)

NOT VOTING—6

Engel
Oxley
Roukema
Traficant
Weldon (PA)
Wilson (SC)

□ 2034

Messrs. SOUDER, SHADEGG, BURR of North Carolina, and WU changed their vote from ''yea'' to ''nay.''

Mr. ROTHMAN and Mr. DELAHUNT changed their vote from ''nay'' to ''yea.''

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RANGEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 214, answered ''present'' 1, not voting 5, as follows:

[Roll No. 279]

AYES—215

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Kucinich
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Pence
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
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—214

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Goode
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED ''PRESENT''—1

Bartlett

NOT VOTING—5

Engel
Hayes
Oxley
Roukema
Traficant

□ 2047

Mrs. TAUSCHER changed her vote from ''present'' to ''no.''

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. HAYES. Mr. Speaker, on rollcall No. 279 I was detained on the floor by legislative business. Had I voted, I would have voted ''present.''

MEDICARE MODERNIZATION AND PRESCRIPTION DRUG ACT OF 2002

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 465 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 465

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order (except those arising under section 302(f) of the Congressional Budget Act of 1974) to consider in the House the bill (H.R. 4954) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize and reform payments and the

regulatory structure of the Medicare Program, and for other purposes. The bill shall be considered as read for amendment. In lieu of the amendment recommended by the Committee on Ways and Means, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. All points of order against the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, with one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Mrs. SLAUGHTER), pending which I yield myself such time as I may consume.

Mr. Speaker, H. Res. 465 is a closed rule that provides 2 hours of debate in the House, with 1 hour equally divide and controlled by the chairman and ranking minority member of the Committee on Ways and Means and 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.

H. Res. 465 waives all points of order against consideration of the bill, except those arising under section 302(f)of the Congressional Budget Act of 1974. H. Res. 465 provides that in lieu of the amendment recommended by the Committee on Ways and Means, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted.

The rule waives all points of order against the bill as amended and provides one motion to recommit, with or without instructions.

Mr. Speaker, I urge my colleagues to join me in approving this rule so that the full House can proceed to consider this important Medicare reform legislation. The underlying bill is critically important legislation that is designed to provide much-needed financial assistance to seniors to ease the burden of the rising costs of prescription drugs.

H.R. 4954 seeks to improve the Medicare program by introducing free market forces in order to bring down drug prices and medical costs overall by introducing competition to a program that currently has none.

In addition to unleashing market forces on prescription drug prices, the bill seeks to move the Medicare+Choice program into a more competitive structure, the durable medical equipment and off-the-shelf orthotics are subject to competitive bidding and, finally, Medicare contractors will bid competitively for business. All of these reform elements will help move Medicare in the right direction, and our seniors will surely reap the benefits of a more consumer-friendly and patient-sensitive Medicare.

The House voted on similar legislation in the 106th Congress but was unable to reach agreement with the other body and the Clinton White House in order to enact a law to help our seniors. Well, with our new administration under President Bush now in office, I believe the House of Representatives needs to seize the historic opportunity to move a Medicare prescription drug benefit proposal through the 107th Congress in order to give our President a chance to sign such important legislation into law.

I applaud the hard work and leadership of my friends and colleagues, the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, and the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce, and their respective ranking members in bringing this legislation to the House floor today.

I urge my colleagues on both sides of the aisle to support H. Res. 465, a rule that will allow the House to consider and pass legislation that will improve the lives of millions of seniors across the country by providing them affordable prescription drugs.

Mr. Speaker, I neglected to say earlier that all time yielded in the pursuit of passage of the rule is yielded for the purpose of debate only.

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

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Georgia for yielding me the customary 30 minutes, and 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, with the rule before us today, this body is being asked to hand over one of the most popular government programs in history to private insurance companies. Medicare is a critical program, a program that benefits a wide spectrum of our constituents and one that American families have come to depend on for their loved ones in need. But today, in a cynical nod to the pharmaceutical industry, the leadership has shut out any meaningful debate. No Democrat substitute will be allowed, no amendments to guarantee affordable prescription drugs for our seniors will be permitted, and anyone voicing dissent has been silenced.

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Indeed, in the wee hours of this morning in the Committee on Rules, one of my colleagues made it clear that he wanted the free market to determine drug prices, and declared that Medicare was, attention, a Soviet-style program, echoing the sentiment made by his former leader, Newt Gingrich, that Medicare should be allowed ''to wither on the vine.''

Make no mistake: the contempt for Medicare runs deep within this leadership, as it does for other vital social programs. By calling Medicare Soviet-style, we can be certain that this is not a mandate to ensure the future of the program, but rather, the opposite.

Mr. LINDER. Mr. Speaker, will the gentlewoman yield? She is misquoting something I said, and I would like to respond to it.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman has not been yielded to.

Mr. LINDER. Will the gentlewoman yield?

Ms. SLAUGHTER. No, I want to finish my statement.

Mr. LINDER. She referred directly.

The SPEAKER pro tempore. The time is controlled by the gentlewoman from New York.

Ms. SLAUGHTER. But rather the opposite, a call to leave seniors to the mercies of the private sector and the free market, rather than guarantee them livable, affordable health care.

My constituents and others around the Nation are reeling from public programs that have been turned over to the so-called free market. Utility rates, cable rates, you name it, the free market has ensured exorbitant prices with diminished service. Pensions and retirement security have taken a similar beating.

Moreover, the timing of this proposal could not be worse. The proposal places the program in the private sector at a time when private insurers have dropped Medicare+Choice beneficiaries by the thousands.

Private insurers will inevitably alter plans and move in and out of markets, leading to unpredictability for our seniors. A given drug might be covered one month, but not the next. Premiums could double from year to year without warning.

The rule before us is one of the most heavy-handed procedures to come out of the Committee on Rules, and given the last few weeks, that is saying something. Amendment after amendment was blocked from floor consideration.

My colleague, the gentlewoman from Florida (Mrs. THURMAN), and the gentleman from Maine (Mr. ALLEN) had a remarkably sensible idea of requiring that prescription drug plans negotiate with pharmaceuticals for lower prescription drug prices, a necessity before we put a Federal program on top of them. Canada does it, and France does it, Germany, Italy, Japan, Britain.

Virtually every developed country in the world has committed itself to negotiating lower drug prices for its citizens. Even the United States demonstrated remarkable success when negotiating Cipro prices during the anthrax attacks last fall.

But under this rule, this very sensible amendment will not be permitted.

This is even more remarkable when we consider that the underlying bill prohibits the Federal Government from pushing for lower prescription prices.

My colleagues, the gentleman from New Jersey (Mr. PALLONE) and the gentlewoman from California (Mrs. CAPPS), attempted to ensure that all seniors have the option of prescription drug coverage, especially in those geographic areas where insurance companies choose not to offer a plan. Under the current bill, there is no guarantee that seniors will have access to coverage at all if insurers should decide not to cover their area.

The amendment will never see the light of day, however, under this rule. Instead, we are left with a fundamentally flawed document that fails our constituents on every level. The proposed plan would be administered through either HMOs or drug-only insurance plans.

The fact that drug-only insurance plans do not exist in the private market does not deter proponents from their privatization agenda. In fact, they are so bent on privatizing the drug benefit that they are prepared to bribe private plans with a subsidy as large as 99.99 percent in order to get them to offer drug coverage to seniors, regardless of the quality of the service or extent of the benefit.

Mr. Speaker, a little more history may be in order. The Medicare program was originally created because the private sector did not offer affordable and reliable health insurance to the elderly and the disabled. Health care has certainly changed in the past 30 years, but what has not changed is the fact that the private market does not want to ensure people who are old, disabled, and likely to need care.

Mr. Speaker, the inadequacies in this bill continue, and I will highlight them briefly. The measure penalizes seniors who receive aid with prescription drug costs from charitable, church, or State programs by not counting the costs paid by those parties toward the individual's Medicare deductible.

Seniors may actually have to drop out of programs like New York's Elderly Prescription Insurance Coverage, the EPIC program, in an attempt to obtain their Medicare benefits.

The proposal has numerous gaps that leave seniors without coverage while requiring them to pay premiums. For example, earlier this month I received a letter from a 71-year-old constituent who must take medication to prevent a recurrence of a potentially dangerous, deadly fungal lung infection. The drug costs her nearly $1,000 a month. Under the majority plan, this woman would still pay well over $3,000 a year for this medication, and in addition, she would have to drop out of New York's program, which is currently helping her with these expenses.

The proposal includes copayments, premiums, and deductibles that will be unaffordable for many low- and middle-income seniors. The $35-per-month premium is a suggested amount and certainly not a guarantee. Insurers could choose to charge double or triple that amount if they chose to.

The bill is opposed by numerous respected organizations, including the National Council on Aging, AARP, Families U.S.A., and the National Committee to Preserve Social Security and Medicare.

Mr. Speaker, the majority has taken the proverbial sow's ear and is trying to convince America it is a silk purse. My constituents are not fooled, and I hope my colleagues will not be, either.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WOOLSEY).

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

Ms. WOOLSEY. Mr. Speaker, I express my opposition to this sham bill that is harmful to senior women.

Mr. Speaker, studies show that older women live an average of six years longer than men. Often widowed and living alone, the average woman age 65 and older struggles to survive on an annual income of $15,615.

During her lifetime she probably spent 17 years out of the workforce caring for children, and perhaps 18 years caring for elderly parents. Her retirement income is also smaller because she probably did not receive a pension, and was paid less than most men.

As a result, she receives lower Social Security benefits. She spends a larger percentage of her income on housing costs—leaving less money for necessary expenses like utilities, food, and health care. This is a particularly difficult problem because the average older woman spends 20 percent of her income each year on out-of-pocket health care costs.

Even though Medicare is not typically thought of as a woman's program, it's central to a woman's well-being. Because women live longer than their male counterparts, they also rely on Medicare and its benefits longer.

While Medicare provides women with critical access to health care, gaps in the program leave women vulnerable to unaffordable out-of-pocket-costs. According to the Kaiser Family Foundation, women account for nearly 7 in 10 Medicare beneficiaries with incomes below the poverty level.

Similarly, access to affordable prescription drugs is a woman's issue. Why? Because women make up a large portion of consumers purchasing prescription drugs.

Women have a greater rate of health problems since they live longer. They have lower incomes, which make access to affordable prescription drugs more difficult. In addition, because of age, women report more chronic conditions that require ongoing treatment, accompanied by a regimen of costly drugs.

As the costs of prescription drugs continue to rise these out-of-pocket expenses will continue to take a higher percentage of older women's limited monthly income. Where do we draw the line? When will we enact a drug benefit that will allow all seniors to live out their lives without being forced to choose between food or medicine?

It's time we start considering women's needs when we debate prescription drug proposals.

Sadly, the GOP's Medicare modernization plan will only perpetuate persistent health care disparities among women because it creates new gaps in coverage.

If the GOP plan prevails, seniors won't feel any more certain about their benefits—in fact, the GOP proposal allows plans to vary their benefits and premiums from one region to another; from one plan to another and, the GOP plan provides no guarantees. Their plan would privatize prescription drug plans like an HMO . . . not put the plan under Medicare. Our seniors need more stability and certainty than that—especially older women who are counting on Congress to provide a real solution to the high cost of prescription drugs.

Women are major stakeholders in the debate over Medicare's future and a prescription drug benefit. Policies that expand access to outpatient prescription drugs and long-term care would help fill coverage gaps that drive up out-of-pocket spending for women.

Conversely, policies that erode coverage or that shift costs to beneficiaries could affect women, especially those with low incomes.

Older women are one of the nation's most at-risk gropus, and a prescription drug benefit must meet their needs. Understanding the full implications of proposed reforms for aging women must be an essential component of efforts to preserve and protect medicare for generations to come.

Under the GOP plan, there will be no real winners—only struggling survivors, seniors who manage to make ends meet.

For my constituents and the older women in this country, merely getting by is not good enough, so instead, let's make everyone a winner by enacting a prescription drug benefit that guarantees seniors and women real assistance.

After a lifetime of taking care of their families, older women deserve better than what the Republican leadership is proposing. That's why I strongly urge my colleagues to stop further debate on this sham of a proposal and get serious about providing genuine relief to Medicare recipients.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Mrs. JONES).

(Mrs. JONES of Ohio asked and was given permission to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I express my opposition to this bill that is particularly harmful to senior women, like my mother.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LEE).

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

Ms. LEE. Mr. Speaker, I express my opposition to this sham bill that is particularly harmful to senior women. This is a shame.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Indiana (Ms. CARSON).

(Ms. CARSON of Indiana asked and was given permission to revise and extend her remarks.)

Ms. CARSON of Indiana. Mr. Speaker, I express my opposition to this bill that does not allow senior women to be able to afford to live, particularly those senior women who suffer from cardiovascular disease.

Mr. Speaker, I rise in support of the American people. The same American people who have been paying too much for prescription drugs and have been waiting for years for Congress to pass a fair Medicare prescription drug benefit. This plan that the Republican leadership has brought to the floor is a sham.

Where is the benefit for our seniors who are living on a fixed income and cannot afford such a high co-payment? Where is the benefit for the women who, because they were stay at home mothers and did not earn a pension, cannot afford the prescription drugs that are needed for a better quality of life.

The costs of prescription drugs for seniors are rising at a rate greater than that of inflation.

Senior women must be accounted for and given a platform regarding prescription drug benefits because they make up almost 60% of the Medicare population. Without affordable benefits, women will be forced to pay extremely high costs for prescription drugs that they already struggle to afford.

We need a plan that makes prescription drugs more affordable for the people who cannot live without these products. What the Republicans are proposing is not help for seniors, but more heartache.

The ''plan'' the Republicans have drawn up would not be a benefit to anyone except the insurance companies.

Forcing Medicare recipients into private plans which cover less than half of the costs of prescription drugs is not a benefit?

A plan that forces Medicare recipients to pay for a gap in coverage of at least $1,800 a year is not a benefit!

A plan that does not guarantee the same coverage for the entire country, that seniors in Indiana could pay a higher premium than those in a different part of the country, is not a benefit!

There are over 844,835 people on Medicare in my state of Indiana. That is 14% of the population. 44% of these people are under 200% of the federal poverty level. I will not go home and tell them that I gave away their security to a private company trying to make money off of their health.

Prescription drug benefits are particularly crucial for women because they tend to live an average of 6 years longer than men and are more likely to suffer from prolonged chronic illness. Senior women have a longer period of time to incur out of pocket cost to pay for prescription drugs and deserve to be provided with considerable benefits.

Not only do women tend to live longer than men, but they are also at an unfair disadvantage where their income is concerned. The average annual income for women age 65 and older is $15,615, which is only half of the annual income of men. Recent surveys indicate that eight out of ten women on Medicare, approximately 17 million women, use prescription drugs regularly and most pay for these medications themselves. Senior women have a limited income and must receive affordable prescription drug benefits that they can rely on.

How dare the Republicans try to give to the seniors of this country a plan that is not equal to what they receive as Members of Congress! They have stated over and over that seniors deserve the same coverage as Members of Congress.

When the non-partisan Congressional Research Service did a comparison of the drug benefit under the Blue Cross-Blue Shield Standard option available to Federal Employees to the Democrat and Republican prescription drug plans, they found that the Republican plan would give about 40% of the coverage Members of Congress receive, but the Democratic plan would give comparable coverage.

In addition, when given the opportunity to rectify this gap in coverage, the Republicans on the Committee voted against giving this same coverage.

Whay type of thinking is this?

Give the minority a voice! Let there be a vote on the Democratic Medicare Prescription Drug benefit, a plan that actually helps seniors and does not hurt them!

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Mrs. NAPOLITANO).

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

Mrs. NAPOLITANO. Mr. Speaker, I express my opposition to this shameful bill that is particularly harmful to our senior women who live longer and have the largest consumption of purchases of drugs.

PARLIAMENTARY INQUIRY

Mr. LINDER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Georgia will state his parliamentary inquiry.

Mr. LINDER. Mr. Speaker, at what point does this series of speeches become credited against their time?

The SPEAKER pro tempore. After their request for unanimous consent to revise and extend their remarks in opposition, the Chair will count against the minority's time any speeches that are given. To this point, the Chair has not heard any.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Hawaii (Mrs. MINK).

(Mrs. MINK of Hawaii asked and was given permission to revise and extend her remarks.)

Mrs. MINK of Hawaii. Mr. Speaker, I rise on behalf of my constituents to oppose the rule and the passage of this bill as a fatal step towards privatization of Social Security.

Mr. Speaker, I rise today to urge my colleagues to oppose the Republican's prescription drug benefit plan because it does not provide a meaningful prescription drug benefit.

There are 40 million elderly and disabled people enrolled in Medicare. They need Medicare to obtain basic health care coverage. Unfortunately, the program has a very limited prescription drug benefit. Since Congress created Medicare in 1965, it has struggled to find a way to create an adequate prescription drug benefit.

Prescription drug expenditures have grown at a double-digit rate almost every year since 1980. Congress needs to act now to help those currently in the system and the estimated 77 million Americans who will be in Medicare by 2030. These Americans expect to obtain affordable prescription drugs through Medicare. Congress cannot wait any longer. It must create a prescription drug benefit.

Even though creating a prescription drug benefit is one of the most important bills of this Congress, the Republican leadership has prohibited members of the House from offering amendments or even voting on the Democrat's substitute. Since the Republicans began their rule, they have imposed ''gag'' rules to prevent a full debate on may important issues. In a chamber dedicated to the principles of democracy and a free and open debate, it is unacceptable for the Republican leadership to prevent members from even considering other prescription drug plans or amending the Republican plan. The House should have an opportunity to amend the bill created by the Republican leadership because it is flawed. It is not a guaranteed Medicare benefit. It relies on HMOs and other private insurance companies, who may restrict benefits at any time.

The Republican's bill (H.R. 4954) does not create a defined prescription drug benefit under Medicare. It subsidizes private insurance companies, who will offer prescription drug coverage to Medicare beneficiaries. This plan leaves the elderly alone in a fight with private insurance companies to obtain the prescription drug coverage they need.

H.R. 4954 does not specifically define the type of benefit that insurance companies must provide. The insurance companies can create strict rules that limit access to certain expensive drugs that could hurt a company's bottom line. Doctors will prescribe medicine without any assurance that seniors will be able to obtain them through their private insurer.

Additionally, insurance companies can limit which pharmacies participate in their network. Seniors in rural areas may be forced to travel many miles to find a pharmacy that is ''acceptable'' to their private insurance provider.

By relying on private insurers, the elderly will not even know how much their monthly premium will cost. The Republicans think it will be $35 per month. It might be higher. It might be lower. Premiums could vary from county to county and year to year. The monthly premiums in the Republican's prescription drug benefit plan could rise beyond the resources of the disabled and the elderly. In Nevada, the only state where a similar plan is offered, premiums exceed $80 per month.

The Republican plan does not provide sufficient coverage. It covers less than a quarter of Medicare beneficiaries' estimated drug costs over the next 10 years, and the complicated coverage formula has a large hole. After providing partial coverage on the first $2,000 seniors spend on prescription drugs, the Republican plan does not provide any additional help until they pay $3,800. It does not cover expenses between $2,000 and $3,800. The elderly must find a way to pay for these expenses by themselves.

America needs a prescription drug plan that truly helps the elderly obtain the drugs they desperately need. We do not need a plan that exposes Medicare beneficiaries to the whims of private insurance companies who are more interested in profits than providing comprehensive benefits.

Under the Democratic proposal, which the Republicans refused to debate: the monthly

premium is locked in at $25, the annual deductible is only $100, Medicare pays 80% of seniors' drug costs up to $2,000, and there is a $2,000 out-of-pocket limit per beneficiary per year.

The Democratic proposal fully integrates prescription drug benefits into the Medicare program. It allows the elderly to rely on their governmental prescription drug benefit, rather than depending on the generosity of profit driven insurance companies.

This House has an opportunity to pass legislation to help disabled and elderly women obtain affordable prescription drugs. I urge my colleagues to support the Democratic plan to create a simple prescription drug plan that helps all seniors pay for the skyrocketing cost of prescription drugs. I urge my colleagues to vote against the Republican bill because it fails to do this.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would advise the gentlewoman from New York that one came close to debate.

Ms. SLAUGHTER. Mr. Speaker, we will watch it.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. ROYBAL-ALLARD).

(Ms. ROYBAL-ALLARD asked and was given permission to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise to express my strong opposition to this irresponsible bill that is particularly harmful to women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Mrs. THURMAN).

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

Mrs. THURMAN. Mr. Speaker, I express my opposition to this rule and to this sham bill that is particularly harmful to senior women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. MCCARTHY).

(Mrs. MCCARTHY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MCCARTHY of New York. Mr. Speaker, I express my opposition to this sham bill that is particularly harmful to senior women.

I have seen much in my lifetime, but nothing like the blatant disregard for America's seniors by House Republican Leadership. Prescription Drugs is a life and death issue affecting millions of seniors.

This body should not be forced to debate a bill severaly lacking in substance and without even the opportunity for a discussion on an alternative.

Unfortunately, there is no room for discussion.

There is no room for options.

There is no chance for an open, constructive and spirited debate on what America's seniors need most—a Prescription Drug Benefit under Medicare.

The bill before us today is nothing but a SHAM proposal, which does nothing to provide a real, guaranteed prescription drug benefit to our nation's seniors.

I was a nurse before I came to Congress. Let me tell you what this bill does not do for America's seniors.

This bill does not bring down the cost of prescription drugs.

This bill does not guarantee a prescription drug benefit for seniors; and This bill does not guarantee coverage for any drug prescribed by their doctor.

What the bill does do, however, is to provide benefits to insurance companies.

As a nurse, the worst aspect of this bill to me is that the higher your drug bills get, the less help you get with paying those bills.

Our seniors deserve a plan that is guaranteed and affordable. They should not have to worry about coverage gaps, or which pharmacy they can go to for their prescription drugs.

And they certainly shouldn't be limited to which drugs their doctor can prescribe.

We owe our seniors more than vague promises. We owe them a prescription drug benefit that will be there whenever they need it, and for whatever drug their doctor prescribes.

We owe it to the American people not to support this sham Prescription Drug Bill.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Mrs. TAUSCHER).

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

Mrs. TAUSCHER. Mr. Speaker, I express my opposition to this sham bill that is particularly harmful to senior women, my sisters, and my mother.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Michigan (Ms. KILPATRICK).

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

Ms. KILPATRICK. Mr. Speaker, I express my opposition to this sham Republican bill that is harmful to women all over America.

Mr. Speaker, I rise today to stress the importance of providing a meaningful prescription drug benefit for seniors in our nation. We have paid lip service for too long and now is the time for Members of Congress to deliver good on our word.

However, while we need to enact a prescription drug coverage under Medicare, we cannot afford to enact a benefit that is anything less than what seniors deserve—a meaningful benefit that is voluntary and universal and will provide seniors with affordable prescription drugs. The plan that Republicans plan to offer does not meet these important goals.

Most importantly, the proposed Republican plan does not provide seniors with the promise of guaranteed universal coverage. What does this mean? The Republican plan relies on private insurance plans or Medicare HMOs to offer prescription drug coverage to seniors and offers no concrete or strict guidelines for benefits. Simply put, Republicans have put the industry's interests above those of seniors. Seniors will be given no guarantee of meaningful drug coverage and will be at the mercy of the private industry. Seniors have worked too hard and contributed too much to this nation for us to give them anything but the best we can. And, Mr. Speaker, the Republican plan is definitely not the best we can do—it is far from it.

Democrats are committed to providing a universal, comprehensive drug benefit through Medicare for all seniors. We also are committed to addressing the high cost of prescription drugs that have skyrocketed out of control. It is time for Congress to deliver on our promise and provide seniors with a true prescription drug benefit. Anything less is unsatisfactory.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Minnesota (Ms. MCCOLLUM).

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

Ms. MCCOLLUM. Mr. Speaker, I express my opposition to this sham bill that is particularly harmful to senior women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and I rise against this shameful GOP prescription drug so-called benefit that is very much against my grandmother and all of the grandmothers in this country.

Mr. CUNNINGHAM. Mr. Speaker, I object. I object to the last one.

The SPEAKER pro tempore. There was objection to the statement of the gentlewoman from Florida.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Mrs. MEEK).

(Mrs. MEEK of Florida asked and was given permission to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, this is a sham bill. I represent senior women very seriously.

Mr. Speaker, I rise in strong opposition to both the "sham" prescription drug bill that the Republican leadership has brought to the floor today, and to the unconscionable Rule that the Republican Leadership has proposed, a Rule that denies the Democrats an opportunity to offer a Substitute bill providing real prescription drug coverage through Medicare.

Mr. Speaker, no one in America should have to choose between buying medicine or food, between paying their utility bills or their drug store account, between taking their medicine or living in pain and discomfort. Yet this is the problem that many of our people face every day and we all know it. "Miracle drugs," no matter how innovative or effective, are worthless to those who cannot afford them. Yet today there are huge numbers of seniors who are unable to follow their doctor's orders because they cannot afford the medications their doctors prescribe.

The problem is obvious and so is the solution. Unfortunately, it involves the one thing

that our people want and that the Republican Leadership steadfastly refuses to provide: a real prescription drug benefit through Medicare.

The Republican Leadership knows that American people want a real prescription drug benefit through Medicare. The Republican Leadership's efforts to pass this bill are attempt to create an illusion for the voters this fall. They want to give their candidates a talking point with the voters so they can say that they support prescription drug coverage without actually having to provide it. This is a sham. Our seniors deserve much better.

Mr. Speaker, America's seniors, particularly older women, need comprehensive prescription drug coverage through Medicare and fair drug pricing. The Republican bill on the floor provides neither. The Republican bill is unworkable, unreliable and grossly inadequate.

Mr. Speaker, America's seniors do not want to be left to their own devices and sent on a wild goose chase shopping for private drug plans with no guaranteed benefits, plans that private health insurers do not even want to offer. They should not have to join an HMO that tells them where they are able to fill their prescriptions in order to get drug coverage. They deserve the reductions in drug prices that can only be obtained if we pass a real prescription drug bill that takes advantage of the purchasing power of Medicare's 40 million beneficiaries.

While I am outraged by the Republican Leadership's refusal to allow the Democrats an opportunity to offer a Substitute, I certainly understand the reason for it and so do the American people. The Republican Leadership will not allow the Democrats to offer a Substitute because they know their bill cannot withstand a ''side by side'' comparison with the Democratic Substitute.

The Democratic Substitute that the Republican Leadership will not allow to be debated and voted on has a yearly out of pocket limit on drug costs of $2000. Why would the Republican Leadership want to highlight the fact that under their bill, seniors will have to pay $100% of their drug costs between $2000 and $3700 when nearly one half of all seniors have drug costs over $2000 and would be subject to this gap in coverage?

Why would the Republican Leadership want a comparison between a Republican bill that will force seniors into private HMO's and restrict patients' choice of drugs and pharmacies and a Democratic Substitute that guarantees affordable, dependable, comprehensive drug coverage at a uniform price while preserving freedom of choice for seniors?

Why should seniors in different states pay different premiums for the exact same benefits as the Republican bill will permit?

Now some will in this body will contend that a real comprehensive prescription drug benefit through Medicare is simply not affordable. I say that anybody that can find the funds to grant the bloated tax relief for the rich that this House has provided, including $1.2 trillion in estate tax relief for the millionaires in this country, surely can find a way to pay for a real prescription drug benefit. It's simply a matter of our priorities.

Mr. Speaker, the affordability of providing a real prescription drug benefit is a fair subject for debate and should be debated. But this surely is a reason why the Democratic Substitute needs to be debated and voted upon. It is not a reason to keep the Democratic Substitute from the floor. If a Member of this body believes that we can not afford the real prescription drug benefit that the Democratic Substitute provides, then I say: vote against it.

So the reasons for the Republican Leadership's approach to this issue are clear as they are deplorable. They want a press release for the fall elections, not a real drug benefit and they don't want to take the heat that would come from a side by side comparison of the Republican ''pretend'' bill and the Democratic Substitute.

I urge all my Colleagues. Reject this unfair, one-sided process. Let's have a full and fair debate and produce a real prescription drug benefit. Defeat the proposed rule; pass a fair rule that allows a Democratic Substitute; Vote for the Democratic Substitute and reject the Republican Leadership's bill.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I express my opposition to this bill because it does hurt senior women, in particular, and is another big windfall for the corporate industry.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I rise to express my opposition to this bogus bill that will hurt older women.

Mr. Speaker, today, prescription drugs play a larger role in modern medicine than ever before. Prescription drugs are used as complements to surgical procedures, as substitutes for surgery, and to help reduce future health risks and treat many chronic health conditions. Yet those who need them the most, older adults, and we know that the majority of seniors are women, often find themselves without either affordable prescription drugs coverage or the means to pay for their prescription drugs needs.

Women on average live longer and are more likely to suffer from prolonged chronic illness. In fact, women on Medicare spend nearly 20% more for prescription drugs than men. And—with women's poverty rates twice that of men, prescription drug costs take a bigger bite out of women's limited income.

It is a shame that we are not considering a real prescription drug benefit today, one that would benefit all seniors. Under the Republican bill, the more a senior woman spends for prescription drugs, the less coverage she gets. For some reason, the Republican bill forces seniors, your mother, your grandmother, to pay a higher percentage of costs as their needs increase. Mr. Speaker, does this makes any sense?

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

(Ms. MILLENDER-MCDONALD asked and was given permission to revise and extend her remarks.)

Ms. MILLENDER-MCDONALD. Mr. Speaker, I express my opposition to this bill that is particularly harmful to senior women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada (Ms. BERKLEY).

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

Ms. BERKLEY. Mr. Speaker, I express my opposition to this shameful bill that is particularly harmful to the senior women in my district.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. SOLIS).

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

Ms. SOLIS. Mr. Speaker, I express my opposition to this bill.

(The following sentence was delivered in Spanish.)

Mr. Speaker, for all of the old women who can hear me loud and clear, this is another tactic for the Republicans to take away your medication.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I express my strong opposition to this pitiful bill that denies senior women across America access to affordable prescription drugs because the Republicans gave all the money away to companies like Enron in tax cuts, and they were not deserved.

Mr. CUNNINGHAM. Mr. Speaker, I object.

The SPEAKER pro tempore. An objection is heard to the last request to revise and extend.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the 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. Speaker, I rise against the Republican no-benefit prescription drug proposal that is harmful to seniors in my State.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Mrs. DAVIS).

(Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, I express my opposition to this unacceptable bill that is particularly harmful to senior women in my district.

Mr. Speaker, I rise today to talk about H.R. 4954, the Medicare Modernization and Prescription Drug Act and its implications for our seniors. In particular, I would like to discuss how women fare under this proposal before us.

Women are literally the face of Medicare. They comprise 58 percent of the Medicare

population at age 65 and represent 71 percent of beneficiaries at age 85. Any potential prescription drug plan must be evaluated with regard to its impact on women—if it works for women, it works for everyone.

When Medicare was established in the 1960s, the biggest need was insurance coverage for hospital stays and doctor visits, not prescription drugs. The focus then was on providing relief for acute conditions, not chronic.

Today more than 88 percent of Medicare's 42 million beneficiaries use prescription drugs. The average senior takes four prescriptions daily and fills an average of 18 prescriptions a year.

The use of prescription drugs is more pronounced among women. Beginning at midlife, women have a higher incidence of chronic illness than men. The average woman age 65 and over lives nearly seven years longer than the average man and relies on Medicare for her health insurance coverage for more years.

While most women on Medicare use prescription drugs regularly, over ¼ of these beneficiaries—nearly six million women—lack any prescription drug coverage.

Out-of-pocket spending for prescription drugs place a disproportionate burden on older women who have retirement incomes that are roughly half than those of men. In 2000, the average income for women over 65 was $15,638, compared to $29,329 for men.

Even though women have significantly smaller incomes than men, they spend a larger proportion of their income on out-of-pocket health costs. Women over 65 spend 20 percent in comparison to the 17 percent spent by men. These expenses increase to 27 percent for women 85 and older.

Older women are one of our nation's most vulnerable groups and providing affordable prescription drug coverage is critical to improving their quality of life.

Unfortunately, the proposal before us today does not achieve this objective. This legislation does not guarantee any specific benefit. Instead, the bill provides subsidies to insurance companies to provide private insurance to seniors. The coverage and $33 premium mentioned today would only be available to beneficiaries who can find a private plan that offers it. All these figures depend on what HMOs and private drug insurance plans want to charge.

H.R. 4954 provides less than one-quarter of the amount seniors are estimated to pay for prescription drugs over 10 years. In fact, it leaves seniors wholly responsible for costs between $2000 and $3700. Nearly half of all seniors' annual drug costs are above $2000. I cannot support a plan that subjects seniors to a gap in coverage. These seniors will not receive any help with their drug bills for at least part of the year, even though they continue to pay premiums.

I am committed to passing a fair prescription drug plan under Medicare that does not stifle innovation or eliminate choice in coverage. Seniors need assistance in order to obtain prescription drugs to treat or prevent illness.

In addition, I am disappointed that today's activities will not include a discussion of an alternative bill. As our senior population continues to grow, we must take a comprehensive look at all of our options in order to provide seniors with real benefits.

Instead of H.R. 4954, I support a meaningful prescription drug benefit that does not handicap our seniors at a time when they most need assistance. The plan I support builds on the existing Medicare system and provides seniors with guaranteed benefits, premiums, and cost sharing for all beneficiaries. Not estimates. The federal government would use the collective bargaining clout of all Medicare beneficiaries to negotiate fair drug prices and these savings would be passed on to our seniors.

American seniors want, need, and deserve real prescription drug coverage. The Medicare Modernization and Prescription Drug Act establishes a complex program that offers modest benefits at most.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Ms. VELÁZQUEZ).

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

Ms. VELÁZQUEZ. Mr. Speaker, I express my opposition to this sham bill that is a giveaway to the pharmaceutical industry at the expense of seniors and especially women in our country.

Mr. Speaker, I rise today in opposition to this legislation. While we all agree that today's elderly need and deserve a prescription drug benefit, I am afraid this proposal is not the answer.

If we are lucky enough, our parents are still with us. And we know how they can live longer and more active lives with the new medical treatments that exist today. Some of our parents already face—and some of us in the not so distant future may face—the issue of drug affordability—drugs that help us to live life to the fullest.

We are in the middle of a health care crisis in this Nation. Drug prices rose 17 percent last year alone—after five years of double-digit spikes. The prices of popular and heavily-marketed drugs increased even more—an incredible 34 percent.

No one doubts that something must be done—and fast. But passing legislation that makes two wrongs does not make a right. As Ranking member of the Small Business Committee, I want to point out how this plan fails in two critical ways.

First, it fails our seniors. It does nothing to provide a comprehensive, affordable drug benefit with Medicare. Second, it fails small community pharmacists. These pharmacists serve a vital purpose in our communities. The corner drug stores anchor our neighborhoods and the local pharmacist counsels our seniors about their medications.

Once again, through the lens of this proposal, we see who the Republicans care about most—big business—the pharmaceuticals, the health care companies. Not the little people—seniors citizens that give so much back to our communities and the corner drug stores they visit and depend on each and every day.

Mr. Speaker, this is a bad plan. It enriches a handful of corporations at the expense of seniors and the small businesses across the country that serve them—without even delivering on the promise of comprehensive, affordable prescription drug coverage.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Michigan (Ms. RIVERS).

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

Ms. RIVERS. Mr. Speaker, I express my opposition to this terrible bill that is particularly harmful to senior women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WATSON).

(Ms. WATSON of California asked and was given permission to revise and extend her remarks.)

Ms. WATSON of California. Mr. Speaker, I rise to express my opposition to this most deceptive bill that is particularly harmful to my 92-year-old mother and other senior women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from North Carolina (Mrs. CLAYTON).

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

Mrs. CLAYTON. Mr. Speaker, I express my opposition to this sham bill that is particularly harmful to older women who live longer, have more diseases, have less money, and need prescription drugs that they can afford.

Women live longer, suffer from more diseases, have less money when they retire and must pay more for their prescriptions. 65 percent of Social Security recipients are women—75 percent of the low income retired persons are women. The majority of those need real prescription help, not this bill which does nothing to help sick older women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Wisconsin (Ms. BALDWIN).

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

Ms. BALDWIN. Mr. Speaker, I rise to express my opposition to this bill, which I deem to be a betrayal of the women of the Greatest Generation.

Mr. Speaker, I urge my colleagues to vote against this sham of a bill. It lays the groundwork to privatize Medicare and does not provide a real, guaranteed, defined benefit that our seniors desperately need.

The Republican bill that is on the floor today forces seniors to shop around for prescription drug coverage through Medicare HMOs and private insurance plans. The prices and benefits under this private coverage would vary from region to region, so that a senior in Wisconsin would have to pay a different premium than a senior in Florida for the exact same benefit. These geographic disparities are simply unacceptable.

There are no assurances in this bill that prescription drugs will be affordable. In fact, this bill would cover less than one-fifth of the estimated drug costs of Medicare beneficiaries over the next ten years. In addition, there is a huge gap in coverage. Seniors who need more than 2,000 worth of drugs a year must pay 100% out-of-pocket, and keep paying premiums, until they reach the $3,700 out-of-pocket cap. Millions of seniors will fall into this gaping hole. I believe all seniors deserve affordable prescription drug coverage, and we

should not help some seniors cover their drug costs while leaving others out in the cold.

Seniors will not be guaranteed access to the drugs they need or to their local pharmacies. The bill would allow private insurance plans to limit access to covered drugs, even if the drugs are on an approved list. Seniors would be restricted to certain pharmacy providers or would be forced to pay higher costs to use the pharmacy of their choice, even a pharmacy they have been using for years. I know many seniors in my district who have developed relationships with their pharmacists over the years and would hate to have to go to another provider or pay extra to keep going to their same trusted pharmacist.

I hear from seniors in my district who cannot afford their prescriptions. They send me receipts for their drug bills and ask me how they are supposed to afford their rising drug costs on a fixed budget. They take less than the required dosage to save money, which puts their health at even greater risk.

I support the Democratic proposal that adds a new Part D in Medicare to provide voluntary prescription drug coverage for all Medicare beneficiaries. This proposal would provide the same benefits, premiums and cost sharing for all beneficiaries no matter where they live. It guarantees fair drug prices by giving the Secretary of the Department of Health and Human Services the authority to use the collective bargaining clout of all 40 million Medicare beneficiaries to negotiate drug prices. Savings will then be passed on to seniors. Unlike the Republican bill, there are no gaps in coverage in the Democratic proposal. Coverage is provided for any drug a senior's doctor prescribes. Seniors will be able to choose where to fill their prescriptions and will not have to join an HMO or a private insurance plan to get drug coverage. This is the proposal seniors have been waiting for. Unfortunately, it is not the proposal that was brought to the floor today.

Today we are voting on a bill that is a sad mockery of what the seniors in our country deserve. Instead of providing a comprehensive Medicare prescription drug benefit for America's seniors, the Republicans have decided to make sure this bill suits big drug companies. Close ties to the pharmaceutical industry have influenced this bill at the expense of our seniors. That is just plain wrong for the retirees of the greatest generation who worked hard, lived through the depression won a war, and raised their families.

Seniors need a comprehensive prescription drug benefit that is affordable and dependable for all—with no gaps or gimmicks in coverage. The Republican proposal fails on all these counts. I urge my colleagues to vote against H.R. 4954.

□ 2115

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

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

Ms. SCHAKOWSKY. Mr. Speaker, I rise in opposition to this pathetic excuse for a bill that is particularly harmful to senior women and to persons with disabilities.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. SANCHEZ).

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

Ms. SANCHEZ. Mr. Speaker, I rise in opposition to this sham bill that is particularly harmful to senior women, the heart and the soul of our families.

Mr. Speaker, I rise today to express my strong opposition to the Republican prescription drug bill, H.R. 4954. This bill, while unfair to millions of seniors, is particularly harmful to women.

Women make up a large portion of consumers purchasing prescription drugs. For this reason alone, women's health care needs must be considered as we debate prescription drug proposals. And unfortunately, I am hard-pressed to find many of my women colleagues who were consulted as this bill was drafted. It is no surprise, therefore, that this GOP bill ignores health problems unique to women.

At least one-third of Medicare beneficiaries, many of them women, do not have coverage for drugs—and others are forced to create a patchwork of coverage that simply doesn't get the job done. Too often, women and seniors are left choosing between food and medicine.

Thanks to Medicare, millions of women have dignity and security in their retirement years. Millions of women have avoided poverty and lived better lives. But today, with all of the incredible medical advances coupled with the rising cost of prescription drugs, it's vital that the country pull together to pass a meaningful Medicare prescription drug plan for all women—and all senior citizens.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to this destructive insurance protection act that hurts the grandmothers, mothers, aunts and sisters and all of seniors and those disabled and provides zero benefits to Americans.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. MALONEY).

(Mrs. MALONEY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, I rise in opposition to this rule that would not allow a Democratic substitute and to the underlying bill.

I rise against the rule and the Republican bill. I regret for America's seniors that a Democratic alternative was not allowed. Medicare provides health care coverage to forty million retired and disabled Americans.

For decades, Medicare has worked to provide needed, lifesaving health care to millions, but it is missing a fundamental component: a prescription drug benefit.

If we have courage, this Congress can make history and give our nation's seniors what they desperately need: a real, and meaningful prescription drug plan.

I am proud to join my Democratic colleagues, led by Mr. DINGELL, Mr. RANGEL, Mr. STARK, and Mr. BROWN, as an original cosponsor of H.R. 5019, the ''Medicare Prescription Drug Benefit and Discount Act.''

I come to the floor to discuss two points:

Number 1: unlike the Republican drug plan, the Democratic plan is simple because it builds upon a proven model—Medicare.

Just like seniors pay a Part B premium today for doctor visits, under our plan, seniors would pay a voluntary Part D premium of $25 per month for drug coverage. For that, Medicare or the government will pay 80 percent of drug costs after a $100 deductible. And no senior will have to pay more than $2,000 in costs per year.

There is an urgent need for this plan. The most recent data indicates that almost 40 percent of seniors—an estimated 11 milion—have no drug coverage. Problems are particularly acute for low income seniors and seniors over the age of 85 (the majority whom are women). Additionally, those older Americans who do have coverage find that their coverage is often inadequate for their needs.

The Democratic plan is a real plan with real numbers, not estimates.

Point 2: the Republican plan does nothing to bring down the cost of prescription drugs. The Democratic plan is the only plan that provides real Medicare prescription drug coverage for our seniors by stopping soaring drug costs.

Under the buying power of Medicare, through competition and bargaining we can rein in drug costs. Prescription drug costs are too high for our older Americans. They need help now!

For instance, let's look at the cost of Prevacid. Prevacid is an ulcer medication, and the second most widely used drug by American seniors. The cost for this prescription is on average $137.54 per month in New York City—but only $45.02 in the United Kingdom, a price differential of 206 percent.

Or look at Celebrex, a popular arthritis medication and a drug needed by many older women, especially, since older women are stricken more often than men by arthritis. According to a Government Reform Committee report released by Mr. WEINER and myself, a monthly supply of this drug costs $86.26 in New York City. In France, a monthly supply of Celebrex costs only $30.60. This is a price differential of 182 percent. Seniors in New York City without drug coverage must pay almost three times as much as purchasers in France.

Prices for prescriptions have risen 10 percent per year for the last several years, leading to over $37 billion in profits last year for the giant drug companies. While these corporations wallow in their spoils, seniors suffer without coverage.

Mr. Speaker, we must pass the Democratic prescription drug plan without delay. It is built on a proven model, Medicare. The Republican plan only offers gap-ridden coverage. The Republican bill is about privatization. The Republican plan is all about election year politics.

For the sake of our seniors, we must pass the Democratic plan, and we must pass it now.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. HARMAN).

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

Ms. HARMAN. Mr. Speaker, on behalf of seniors in my district, particularly women, and in particular veterans, I express my strong opposition to this bill.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado (Ms. DEGETTE).

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

Ms. DEGETTE. Mr. Speaker, I rise in opposition to this rule on behalf of the senior women in my district and around this country who live longer than men and pay far more money for prescription drugs.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WATERS).

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

Ms. WATERS. Mr. Speaker, I enter my objection and opposition to this irresponsible bill that will do nothing to help the senior women of this country.

Every day, millions of American seniors are forced to choose between buying prescription drugs and buying food. The Republican leadership in Congress has responded to this crisis with H.R. 4954, a prescription drug bill that does nothing to help them.

The Republican bill would force seniors who want prescription drug coverage to get it from private insurance companies, but the bill provides no guarantee that insurance companies will offer prescription drug policies. Even the Health Insurance Association of America has admitted that insurance companies will not offer drug-only policies. So the Republican plan is guaranteed to fail.

Furthermore, even if prescription drug policies do become available, the premiums, deductibles and co-payments will vary widely. Low-income seniors could be denied the drugs they need if they cannot afford the co-payments. For many middle-income seniors, the benefits would be so limited that it would not be worthwhile for them to enroll. H.R. 4954 is a poor excuse for a prescription drug plan for our nation's senior citizens.

The Democrats have proposed a prescription drug plan that would provide a guaranteed prescription drug benefit under Medicare to all seniors who want one.

This bill would ensure that all seniors who choose to participate would pay the same low premiums and receive the same benefits.

Beneficiaries could choose to obtain their prescriptions from any willing pharmacy and would be guaranteed coverage for any drug their doctor prescribes.

Premiums and co-payments would be waived for seniors who are living under 150% of the poverty level.

The bill would use the collective bargaining clout of all 40 million Medicare beneficiaries to negotiate fair and reasonable drug prices.

Finally, no senior would have to pay more than $2 thousand per year in out-of-pocket expenses for the prescriptions they need.

It is time that Congress make prescription drugs available to all seniors who need them. I urge my colleagues to oppose H.R. 4954 and support the Democratic plan to provide guaranteed prescription drug coverage to all seniors who desire it.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Georgia (Ms. MCKINNEY).

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

Ms. MCKINNEY. Mr. Speaker, I rise in opposition to this bill which is a sham and does nothing for seniors in my district, in my State and in my country.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. ESHOO).

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

Ms. ESHOO. Mr. Speaker, I rise to express my opposition to the bill that will be considered this evening on behalf of my constituents, especially the senior women that I represent. They deserve a great deal more and much better and all the women of the country do.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. PELOSI).

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

Ms. PELOSI. Mr. Speaker, I rise in opposition to this sham bill which is a cruel hoax on the American people, especially cruel to America's senior women who raised our families and deserve better.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut (Ms. DELAURO).

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

Ms. DELAURO. Mr. Speaker, I rise in opposition to this insurance industry, pharmaceutical written bill that does not drive down the cost of prescription drugs or cover most of America's seniors and is very harmful to women in this country, those tomorrow, and those who are in older generations.

Mr. LINDER. Mr. Speaker, I, too, enjoyed that parade; and I particularly enjoyed the fact that they had not a particular thing to say about the bill. To say something about impact the bill and how it impacts women, I yield such time as she may consume to the gentlewoman from Connecticut (Mrs. JOHNSON), who wrote the bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, we have had a parade of my colleagues from the other side claim that this legislation is harmful to senior women. I wonder how they could have so lost touch with the lives of women in America and women in their districts. This bill represents the greatest leap forward in women's health since the passage of Medicare.

I was polite to you, and I ask that you be polite to me.

For the very first time, women, particularly low-income women, will have their prescriptions covered. Perhaps you did not read the bill. You know and I know that women live longer than men. The great majority of seniors are women. Perhaps you did not know that retired women are living on half the income of retired men, that the average income of retired men in America is $30,000 and the average income of retired women is $15,000 and of retired women over 85 is $10,000.

Under this bill those low-income women will receive 100 percent of the costs of their drugs, of their premiums, of the deductible, and of the co-insurance up to maybe 2 to $5. They will have a right to charge that much co-insurance. That is an incredible boon to these women. They will have the security of knowing that every dollar of their prescription costs up to $2,000 will be covered if your income is under 175 percent of poverty, and that is 44 percent of all seniors.

Yes, this is a wonderful thing for women in America. Yes, this bill is a giant step forward for seniors in America. Yes, this is the greatest leap forward for women in health care since the founding of Medicare. And once you have read the bill, I will be happy to talk with you about details. But there can be no arguing with the fact that the first $2,000 of drug expense for people under 175 percent of poverty is completely covered and, by saving the State $40 billion, they will be able to go up that ladder of income.

So let us try to talk about the facts tonight, let us have a little less theater, let us have a little more discussion about the details of the legislation, and let us try to do America proud as we talk about the need for prescription drugs in Medicare.

Mr. THOMAS. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from California.

Mr. THOMAS. As women enter their senior years, in terms of the problems they have with osteoporosis, do we include in this bill additional money to assist in mammography?

Mrs. JOHNSON of Connecticut. We certainly do. We fix all the problems with reimbursements for mammography so they will be more accessible to the women of America. Furthermore, we provide access for something that is extremely important to women, more important to women than men, and that is access to disease management plans to manage chronic illness. It is women who are plagued with four, five, and six chronic illnesses.

Mr. THOMAS. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from California.

Mr. THOMAS. Is it not true that during their working lives men very often have physicals? In fact, it is oftentimes part of their professional occupation to get a physical periodically, and many times women who are not working do not get that physical?

Mrs. JOHNSON of Connecticut. Absolutely.

Mr. THOMAS. Is it not true in this bill that, for the first time, every senior who becomes Medicare eligible, that means every woman, gets a free physical?

Mrs. JOHNSON of Connecticut. Every woman gets a free physical under this bill, and for the first time they have an option for a plan that provides entirely free preventative benefits across the board to men and women.

So this is an enormous advancement for women because women are the ones who get the poorest health care throughout their lives, and they will have an option to a plan that has free preventive benefits across the board and, if they choose it, and they will all get a free baseline physical when they enter Medicare. Yes, a great advancement for senior women.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, I rise in strong opposition to this sham bill and to this woefully inadequate bill offered by the majority.

Every Member of this House knows that the number one issue facing senior citizens is the soaring cost of prescription drugs. Our seniors need relief and real relief now.

My Republicans colleagues go on about how they support giving our seniors relief, and then they send this poor excuse for a benefit bill to the House floor. This guarantees seniors nothing, nothing. It is a bad bill. And to make matters worse, the gentlewoman from Connecticut (Mrs. JOHNSON) gets up and tells us how wonderful and strong her bill is. Yet she and the Republican leadership make it unamendable. No substitute. No amendments. No bipartisanship. Two hours total debate. That is it.

How sad. How outrageous. If there ever should have been an open and fair process, it should have been today. There were even good Republican amendments that were offered before the Committee on Rules that were ruled out of order. But, no, you are afraid you might lose because deep in your hearts you know that your bill is nothing more than a political soundbite and you deserve to lose.

Vote ''no'' on this rule and vote ''no'' on this bad bill.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I stand before you today to offer my remarks on the prescription drug plan.

On May 1, 2002, four of my constituents boarded a bus, traveled from Martinsburg, West Virginia, to Washington, D.C., to offer their voice and their story on how the prescription drug dilemma has reshaped their lives. That day I heard each of their voices; and, unfortunately, it is a voice I hear and we all hear all too often.

At each of the town meetings I have had the majority of the questions deal with the high cost of prescription drugs. After one particular town meeting a young lady approached me. She showed me a list of prescription drugs that her mother was taking and the cost of each drug listed besides it. Looking at the list my heart sank. These figures were staggering. Additionally, because of the high cost of her mother's medication, lack of Medicare coverage for her mother, this young woman who had a family of her own was paying for her mother's medication.

Is this right, Mr. Speaker? No, it is not.

Our seniors deserve the peace of mind of knowing that they can and will be able to afford their prescriptions. Anxiety over the affordability of prescribed medications should not spoil one's golden years. That is why I am standing here tonight.

I am choosing to stand here and tell you that Medicare needs to offer prescription drug benefit. To be blunt, we need to offer it. We needed to offer it yesterday or the day before or the day before. This situation should be resolved.

It is our duty as representatives to represent the people's voice, and their voice says now is the time. I urge all of my colleagues to stand up, pass this rule, pass the Medicare prescription drug legislation which is extremely beneficial to the senior women of America.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, this rule does not allow Democrats an opportunity to say that we think we have a better idea. The majority found it very difficult to get enough votes to support the pharmaceutical industry, but it would just seem to me that it is not a rule against Democrats. It is not a rule even against the integrity of the House. It is a rule against the senior citizens who really deserve better treatment than they are getting.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the distinguished ranking member of the Committee on Ways and Means.

There may be no more serious issue that we consider on the floor of this House this year. The gentlewoman from West Virginia (Mrs. CAPITO) that just spoke said why it was so important. She is right. This issue is critically important to the women that she mentioned, critically important to the individuals that the gentlewoman from Connecticut (Mrs. JOHNSON) mentioned, and I would say critically important to the citizens that every one of the women on this side of the aisle represent and came and said they were concerned about and, therefore, are not supporting this rule.

The gentlewoman from Connecticut said she was polite to those people, and she was. But I suggest to the gentlewoman that this rule is not polite. This rule denigrates the importance and seriousness of this issue.

When your side took over in 1995, Gerald Solomon, the then-chairman of the Committee on Rules, said this, ''The guiding principals will be openness and fairness. The Rules Committee will no longer rig the procedure to contrive a pre-determined outcome. From now on the Rules Committee will clear the stage for debate and let the House work its will.''

You have, of course, retreated from that statement. You have not honored the seriousness of this issue.

□ 2130

The gentlewoman from Connecticut who the gentleman from California (Mr. THOMAS) says wrote this bill will not have the opportunity to defend this bill against an alternative that can be fully debated as to whether or not the seniors to whom she refers will, in fact, be protected.

The gentlewoman served with Bill Gradison. Bill Gradison for those who are relatively new to the House was a member of the Committee on Ways and Means and one of the senior members of the Committee on Ways and Means, and then Bill Gradison left here, and he went to head up the Insurance Industries Association in this country.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, he went to the insurance industry and what does Bill Gradison say, a Republican, not a Democrat, a member of the Committee on Ways and Means, retired, what does he say? A member representing the insurance agency, he says this bill will not work. That is what Bill Gradison says, and the shame on this democratic body is that an issue that all of us agree is so critically important will not be fully debated consistent with the principle that Mr. Solomon enunciated in 1995 when the reformers took over this House.

How sad it is, how sad it is that we come here at this hour to debate one of America's most important issues, affecting millions and millions and millions of people. All of us, all of us have heard the lament of those individuals, be they female or male, who cannot pay their prescription drugs. It is our duty to reject this rule and to have a full and fair debate, consistent with the Solomon principles.

Mr. LINDER. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise to speak in support of the rule. For years I have been an avid supporter of prescription drug coverage for senior citizens. Why? Because I have a mom whose prescription drugs amount to over 50 percent of her Social Security check.

Today, I rise to speak for all of those who have moms and dads on Medicare.

The minority does not have a serious bill. They have a $1 trillion election year gimmick that will bankrupt Medicare.

This is a good and fair rule because it allows a vote on the only credible plan that has been carefully and thoughtfully designed to help seniors by lowering drug costs, guaranteeing coverage and providing choices.

Under the Republican plan, every senior will be eligible for coverage. We guarantee this coverage. It cannot be taken away. The Democrat plan, however, phases out coverage. It is essentially an experiment. Mr. Speaker, seniors cannot afford an experiment. They need real, credible coverage that they can rely on.

This bill will help our seniors. This is a good rule for a long-awaited and much-needed legislation and we must pass it. I urge my colleagues to join me in voting ''yes'' on the rule and ''yes'' on final passage of the bill for my mom and everyone's mom and dad that is on Medicare.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, I rise on behalf of my 83-year-old mother and millions like her across this country who work for decades, in her case, in the factories of New Jersey, now has Alzheimer's and spends over half of her Social Security check on prescription drugs and but for my sister and my assistance would not live with the dignity that she deserves. There is a difference between Republicans and Democrats on prescription drugs, and that is why Republicans will not even let us debate our proposal here on the floor of the House of Representatives.

The denial of a vote on the Democratic proposal for a universal, affordable, guaranteed benefit under Medicare is a corruption of this institution by the Republican majority, by the way, for an industry that has given them millions in campaign contributions.

There is a difference in who benefits. Democrats cover all seniors. My colleagues subsidize big insurance companies and cover less than a quarter of seniors' costs. There is a difference in what seniors will pay. Democrats guarantee a $25 monthly premium with low out-of-pocket expenses. My colleagues leave those decisions to the whims of corporations. Plenty of opportunity for more corporate greed.

No senior in America should have to choose between paying their rent, putting food on the table, and having access to life-enhancing drugs.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would ask the courtesy of all Members in not exceeding the time that has been yielded to them.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. Mr. Speaker, I thank the gentleman from Georgia for yielding me the time, and I thank the Speaker for this time.

This is a long time coming. This is so important for people like my mother who is 85 years old, living in a town of 168 people in Alexander, Iowa. This is not only a bill that is going to help her to be able to afford her prescription drugs and to enhance her length of life and quality of life; but just as importantly, in rural America, this bill is going to make sure that there is access to quality health care in rural America.

There is a lot of work that has gone into this bill, and I would like to see any other proposal out there that has brought together so many people when we look at the American Hospital Association, the AMA, the physical therapists, the National Association of Home Care, the National Rural Health Care Association, all coming together in support of this very, very important legislation.

Mr. Speaker, I have been very proud to serve on the Speaker's Prescription Drug Action Team, and I want to thank the Speaker and all the chairmen of the committees that have worked so hard on this bill and to the successful end which is really going to address the problems that we have.

I also want to congratulate my three Republican colleagues from Iowa (Mr. LEACH), (Mr. NUSSLE), and (Mr. GANSKE) for working as a team to try and make sure that we did get relief in Iowa. We have the lowest reimbursement for our hospitals in the country by a wide margin. This bill is going to take a giant step toward keeping those rural hospitals open, to keep the kind of high-quality health care providers on the job and serving in Iowa. It is absolutely critical that we continue to have the physicians, the nurses, the home health care folks available for my mother.

Mr. Speaker, this is a great evening, and I support the rule and the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, some of the comments that are being made by my colleagues on the other side, both on the floor and in the Committee on Rules, have been very upsetting to me.

I rise in opposition to the rule, but I heard the gentlewoman from Virginia just say that the rule was fair because it allows an up-or-down vote on what is the only good bill dealing with prescription drugs. That is not what fairness is about. That is not what democracy is about.

I asked this morning in the Committee on Rules that the Democratic substitute and three other amendments that would lead to price reductions and another amendment that would provide a guaranteed Medicare benefit be placed in order. All were denied. My colleague may not agree with me, but the gentlewoman from Virginia should not suggest that the only thing that should be considered is what they think is the right thing. That is not the way a democracy operates.

The other thing that upset me was that I heard the gentlewoman from Connecticut say that we should just read the bill. Let me tell my colleague, I read the bill. We have not had a lot of time to read the Republican bill, but I read it. There is nothing in it. It is not a Medicare benefit. It does not guarantee any benefit. It does not tell us what the premium is going to be. It does not tell us what the deductible is going to be. It does not tell us anything about whether it is going to be available anywhere, and there is no price reduction.

The gentlewoman from Connecticut mentioned the passage of Medicare, but she was very proud of the fact this morning in the Committee on Rules that this was not a Medicare bill and that it operated through private insurance and through market competition and was not part of Medicare because she said that Medicare oftentimes does not work now and we need to change it.

Then the gentleman from Georgia actually said in response to the gentleman from Massachusetts (Mr. MCGOVERN) when I spoke about how we wanted a Medicare guarantee and we wanted this to be under Medicare, the gentleman from Massachusetts (Mr. MCGOVERN) said it is unfortunate that the gentleman from Georgia (Mr. LINDER) made a reference to the Medicare prescription drug program as a Soviet-style model program, and the gentleman from Georgia (Mr. LINDER) said, well, it is; and he said it several times.

The problem is that the Republicans do not like Medicare. They do not want this to be a Medicare program because they never liked Medicare, and they want it to wither on the vine, and they do not want to provide any benefit for senior citizens in this country.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume. That was some of the gentleman's more interesting prose. I am sure there is a kernel of thought in there, but I did not detect it.

Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, the parade on the other side of the aisle which repeated the mantra that it was a sham bill, cruel hoax, harmful to women and the disabled, in case anybody really thinks that is true, I am wondering why then when we look at the more than 90 organizations that support this bill, have names such as the Visiting Nurses Association, the Pennsylvania Women's Health Alliance, the National Spinal Cord Injury Association, the National Coalition for Women With Heart Disease, the National Alliance for the Mentally Ill of Pennsylvania, American Parkinson's Association of Vermont, the Epilepsy Foundation of Mississippi, having someone parade to the microphone and repeat some mantra, as though it was

some kind of a fixed statement that meant anything really does embarrass me, when if we look at the organizations and more that I just repeated who every day help the people that my colleagues say are not helped are for this bill. Someone is wrong, and it is not them.

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

The Democrats are standing with AARP, the National Committee to Preserve Social Security and Medicare, the Alliance for Retired Americans, National Council on the Aging, National Senior Citizens Law Center, Families USA, the National Partnership for Women and Families, the AFL and countless others who represent America's 40 million Medicare beneficiaries.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL).

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

Mr. DINGELL. Mr. Speaker, I thank the distinguished gentlewoman for yielding me the time.

We have got a remarkable thing here before us, a closed rule. We have got a bill on which there were never any hearings, a bill that just drips defects, a bill that is opposed by almost everybody that knows anything about pharmaceuticals and about the needs of the senior citizens and a bill that is opposed by every single responsible major organization of senior citizens.

We cannot offer amendments to it. They cannot be cut-and-bite amendments. There is no possibility of us offering a substitute to it. This is what my colleagues call democracy on that side of the aisle? This is the way we treat the concerns and the rights and the interests of our senior citizens? I wonder how many of them like what they are seeing tonight on television as they watch this body engage in debate which is at best fraudulent and which is at worst just plain outrageous.

The hard fact of the matter is we cannot offer amendments on this side at all, but we can bring to attention the fact that this is going to significantly damage, if not in fact destroy, most of the plans that on behalf of industry and labor offer to retirees the right to have prescription pharmaceuticals as a part of the medical care program of the company which offers that particular benefit.

That is an outrage. There is no way that we can address here what the amount is that is going to be charged for the program. In other words, in this legislation, there is nothing anywhere which tells how much the senior citizen is going to pay to whom for what. That is all left up to some kind of nebulous understanding between the Secretary and an insurance company. There is no correction for that particular problem.

Is that bad? Of course. But there is worse. There is not a nickel's worth of subsidy for the health care of a senior citizen in this legislation. Do my colleagues know where the money goes in the legislation that is before us? To an insurance company. The insurance company can offer whatever benefits it wants or no benefits, but it is going to get a big fat subsidy.

With companies like Arthur Andersen I am sure that we will have an accounting system which will make that look good, but the simple fact of the matter is the benefits that are going to come under this legislation are not going to come to citizens. They are going to go to a bunch of cold-hearted, steely-eyed insurance companies that are going to be interested in maximizing benefits. In fact, there is not one plan which will be offered by insurance companies that is not going to be heavily subsidized.

Mr. Speaker, I rise in strong opposition to this abominable closed rule. On the most important issue to face this Congress, the Republican leadership has decided to prevent a single amendment to be offered, and in particular, a Democratic substitute.

There is no secret why we Democrats are not being allowed to offer a substitute, even a substitute that requires no waivers of the rules. It is not because our substitute has no merit. It is because it has so much merit, it would pass.

Let me explain why the rule needs to be defeated so that we can offer the Democratic substitute.

Unlike the bill introduced by our Republican colleagues, our substitute can be simply explained, because it is built on a simple, known, and effective model—Medicare itself.

Just like seniors pay a voluntary premium for Part B medical costs such as doctor visits, our bill provides for a voluntary Part D drug premium of $25 per month. For that, the Government will pay 80% of drug costs after a $100 deductible. And no senior will have to pay more than $2,000 in costs per year.

These are real numbers, not estimates. The benefits and the $25 monthly premium are specified on the first page of the substitute. Unfortunately, there are no such guarantees in the Republican bill.

On top of that, we will be arming seniors with the most potent protection from soaring drug costs. Forty million seniors banded together under the buying power of Medicare, we can begin to use the necessary bargaining power to rein in high drug prices.

This is not price controls; it is competition and bargaining. We saw that the Government was effective in negotiating a competitive price for the prescription drug Cipro during the anthrax outbreak. Why shouldn't we do the same for other life saving drugs for seniors?

In contrast to our simple and effective prescription drug benefit, the Republican bill is a complex scheme that would make Rube Goldberg blush. In fact, it is not a drug benefit at all. It is a host of subsidies to private insurers in the hope that they will offer a drug-only benefit to seniors. Will they? Time and again they have told us "no."

Why would the Republicans put forward such a model? Well, quite simply they have a larger agenda—they want to privatize all of Medicare, and this is just another step. That is the only reason why seniors are not even given a choice of getting the benefit through their traditional Medicare provider.

Any why don't they endorse our plan? Our plan is simple; it is comprehensive; it is what seniors want. The Republicans have raised just one issue: they say it costs too much. Well, I can tell you that we can afford it. It is just a matter of priorities.

Should that priority be making the estate tax repeal on the wealthiest people permanent, which will cost $750 billion in the decade that the permanent repeal is effective, or should it be enacting a critical health program that will help all of our seniors?

Our prescription drug benefit has the strong support of organizations representing millions of seniors, such as the National Committee to Preserve Social Security and Medicare, the alliance for Retired Americans, the National Council on Aging, and AARP. They recognize our benefit is a good value for seniors.

The substitute also includes provisions to shore up the Medicare fee-for-service system such as increased payments to hospitals, doctors, and nursing homes. Senior citizens and individuals with disabilities depend on Medicare fee-for-service an ensuring its continued viability has always been a priority for Democrats.

It is a good substitute, and I hope my colleagues will vote against the rule, so that it can be offered.

□ 2145

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise in proud support of the rule and the effort of this body. It is an historic opportunity for us.

If we put the politics and the extreme language aside, these are the facts: $350 billion will go to our seniors for prescription drugs, to our rural hospitals, to our health community centers, to those who need it most.

In my home State of Mississippi, 55 percent of all seniors live at the rate that will get the fixed income assistance, which means no deductible, no premium, only a copayment of $2 to $5 per prescription drug, an enormous benefit for the seniors who need it most. Fifty-five percent of seniors in Mississippi.

If we look at those who have catastrophic occurrences in their life, when drug costs exceed $3,700, they will see no cost over that. Those most in need will be helped. It is responsible, it is reasonable, it is right. I urge the Members to follow and support the rule.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HONDA).

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

Mr. HONDA. Mr. Speaker, I rise to express my opposition of this prescription drug proposal.

Mr. Speaker, the elderly and disabled have waited long enough for a prescription drug benefit in Medicare and for relief from the high cost of prescription drug prices. While the Republicans have been busy voting on permanent tax cuts and attending lavish fundraisers

by the pharmaceutical industry, seniors throughout the country have been waiting for Congress to take action. All seniors need relief from prescription drug prices, and they need it now.

However, the Republican prescription drug bill completely fails the test of a real Medicare drug benefit. The Republican bill has no guaranteed minimum benefit, no guaranteed, affordable monthly premium, and no guarantee of fair drug prices. To add insult to injury, their bill leaves a huge coverage gap. Seniors who need more than $2,000 worth of drugs must pay one hundred percent out-of-pocket, and keep paying premiums, until they reach the $3,700 out-of-pocket cap.

Mr. Speaker, the Democrats have an alternative we had hoped to offer. Under the Democratic plan, seniors and individuals with disabilities will be able to keep making the choices that matter. Seniors will not be forced to join an HMO. They will not be forced to join a private insurance plan that will restrict their access to needed drugs, deny coverage for the medicine their doctors prescribe, or force them to change pharmacies. And unlike the Republican plan, our plan has no gap—beneficiaries will always have coverage.

But the Republican Leadership is denying Democrats the opportunity to offer our alternative. They are denying our right to participate in a fair, democratic debate about prescription drugs. The time is now for a real, meaningful, and affordable Medicare prescription drug benefit. Unfortunately, it looks like this Republican-led House won't be providing one anytime soon.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I acknowledge my sisters in Congress as we rise in opposition to this terrible rule.

One of the proudest days of my life was when I was sworn into this body, the symbol of our democracy. But today I am sad for the House and for this country. The process the majority has used to produce their Medicare bill is completely contrary to the principles of our constitution. A bill was rammed through committee that will not give seniors an affordable, reliable, comprehensive benefit; seniors, most of whom are women.

Now the majority is refusing to allow a free and fair debate on the issue. Why? They know their bill will not work. They know seniors will not get affordable drug coverage from insurance companies, and they know so many seniors will get no help with their medications, and they are afraid they would lose.

I can accept losing in a fair fight, but I cannot accept this anti-democratic attempt to muzzle fair debate. We should reject this rule, have a full debate on the needs of our seniors, and pass a real prescription drug benefit.

Mr. LINDER. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Minnesota (Mr. KENNEDY).

(Mr. KENNEDY of Minnesota asked and was given permission to revise and extend his remarks.)

Mr. KENNEDY of Minnesota. Mr. Speaker, this bill is important and overdue for our Nation's 13 million seniors. Our seniors deserve prescription drug coverage now. They do not deserve the Democrat's election-year gimmick.

The average senior saves 44 percent on current drug costs under our plan. Mr. Speaker, our plan gives seniors immediate relief from the rising cost of prescription drugs by providing a discount of up to 25 percent off the top of the overall drug cost.

Just last week, Health and Human Services Secretary Tommy Thompson released a study showing our plan would save seniors more money than our friends on the other side of the aisle. In addition to the immediate discount and cost sharing, our plan includes catastrophic protection, 100 percent prescription drug coverage for low-income seniors, and more Medicare choices and savings.

I support the passage of this bill and this rule, and I urge my colleagues to do the same.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. BONIOR)

Mr. BONIOR. Mr. Speaker, about 2 weeks ago, I got on a bus with some seniors from my State of Michigan, and we went over to Ontario, Canada, to buy some prescription drugs. They got these drugs at 60, 70, 80, 90, 110 percent less than what they would have to pay in the United States, drugs like Lipitor and Celebrex.

They deserve a secure retirement. A secure retirement means not having to choose between medication and rent, medication and food, medication and transportation. It also means not having to go to another country to buy medicines that they need. That is an outrage.

We have the power in this institution to change that. We have had the power to change that for the last 8 years, and we have not done a damn thing about it, if my colleagues will pardon my language.

The Republicans have turned a blind eye to the plight of our mothers and our fathers and our grandparents. They have been blinded by the money and the power of the pharmaceutical lobby, and the Republicans are putting up roadblocks to prescription drugs time after time after time.

It is time for real reform, not a sham proposal. I ask my colleagues to open their eyes to the reality of what is happening in the country and give us some decent options to vote on.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume to remind my friend from Michigan that, about 10 years ago, they had the power to change it with overwhelming majorities in both bodies and the Presidency, and they chose not to do it then, too.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BARTON).

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the rule, even though I had an amendment that I would have liked to have offered that was not made in order on prescription drug savings accounts.

This is not the fairest rule. We could have made in order a Democratic alternative. But for a first start, I think it is a fair enough rule.

This is a good plan that will be on the floor. It spends $350 billion over 10 years to provide a prescription drug benefit and some Medicare reforms for the providers. The drug benefit comes to a population where we have about 30 million senior citizens on Medicare, and 70 percent of those seniors have some prescription drug coverage under private medigap policies. Of those that do not have any prescription drug benefits, 50 percent of them have drug costs that are less than $1,000 a year, and only about 700,000 have drug costs that are over $5,000 a year.

Now, if you are one of those 700,000 or it is your mother or your father, your grandmother, your grandfather, your aunt or your uncle, that is a big problem. But to say that a prescription drug benefit that is going to provide $31 billion a year to provide coverage for prescription drugs is not at least a good start, I think is just flat hypocritical.

Now, I think we can do more. I would like for us to do more. I would like to, at some point in time, make in order an option for those that want to use a prescription drug savings account to have that option; and, hopefully, later this year, we will get that.

I would point out that if the plan that is before us were to become law and it is a bad plan, it is optional. There is nothing mandatory about this plan that is going to be on the floor.

I would also point out that the provider benefits in the bill, which are over $4 billion a year, there is almost universal support for in the provider community.

So this is a good start. I would hope we would vote for the rule and have the debate.

Ms. SLAUGHTER. Mr. Speaker, may I inquire as to the time remaining on both sides?

The SPEAKER pro tempore (Mr. LATOURETTE). The gentlewoman from New York (Ms. SLAUGHTER) has 10 minutes remaining, and the gentleman from Georgia (Mr. LINDER) has 11 minutes remaining.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from New York for yielding me this time.

Last week, the Committee on Energy and Commerce was marking up the prescription drug bill. Last Wednesday, we stopped at 5 p.m. in the afternoon when we should have been working into the evening. Why? Because my friends on that side of the aisle went to a Republican fund-raiser underwritten by the prescription drug companies.

The Chair of that dinner was the CEO of a British drug company who donated $250,000 to the Republican Party. There were hundreds of thousands of other dollars donated by drug companies that night.

The next day, Mr. Speaker, when we went back for the markup, every amendment that Democrats offered that the drug companies did not like, surprise, was voted down. An amendment that said seniors should get the same drug benefits that Members of Congress get was voted down on a party line vote because the drug company sat in the back of the room and said no.

Every amendment we voted on that the drug companies did not like, to close the gap in all the out-of-pocket expenses that seniors had to pay, if the drug companies did not like it, they sat back in the back of the room and said no.

Vote for the Democratic plan written for seniors.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. BROWN of Ohio. Vote ''no'' on the Republican plan written by the drug companies for the drug companies.

The SPEAKER pro tempore. The gentleman's time has expired.

Ms. SLAUGHTER. I was going to yield that gentleman another 30 seconds.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members need to heed the gavel, and the Chair would respectfully ask that, when the gravel is pounding, the Members cease speaking so that the gentlewoman from New York (Ms. SLAUGHTER) could yield additional time, which is her desire.

Mr. LINDER. Mr. Speaker, I am pleased to yield 2 minutes to my friend, the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, as many of my colleagues in this body know, I practiced internal medicine for many years before coming to the House. Indeed, I still see patients about once a month at the veterans' clinic in my congressional district. I lived this problem on a daily basis. I practiced internal medicine. Mainly what I did was I wrote prescriptions mainly for senior citizens, and I dealt personally with the struggles that many of them face in paying for their drugs.

My primary concern is getting a bill, and frankly I was very disappointed we did not get a bill 2 years ago, and I think the reason we did not get a bill is because some people thought they could capitalize on it in the campaign, and I have to honestly say this is deja vu all over again. We are starting out very, very poorly.

I have heard that they have not had a chance. We had two committees mark up this bill. The Committee on Ways and Means spent 13 hours on it. They were in until 2 a.m. The Committee on Energy and Commerce went all night. We hear these claims that the pharmaceutical company is giving us all this money. Do I assume the Democratic party has never taken any pharmaceutical money?

I will tell the Members what we need. We need a plan. We need some kind of plan, and this is step one. We have to go to conference with the Senate. Then we have to negotiate in conference, and many of you people who are over there demagogueing this issue are going to be in that conference committee. We are going to have plenty of opportunities to get a very, very good bill to help our seniors.

But if we keep on with this attitude, I am going to tell my folks back home, forget it. It is going to be kicked off into the campaign again. People are going to hope they are going to get an advantage, and I do not think anybody is going to get an advantage, and the people who are going to suffer are the senior citizens.

I want to say one other thing. We do not want a plan that stifles innovation. If you stifle innovation, I can tell you I used to write prescriptions for people and give them to them, new pills that kept them alive, and without those pills, they would have died.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I want the people of the fifth district's voices to be heard tonight, too. First of all, I want to say that this debate tonight is not about the provider givebacks in this bill. This debate is about the most important issue facing the American people and the issue that every Member of this Congress and including the President ran on in the last election.

And let us make it clear, today I went to the Committee on Rules because the people in the fifth district said to me, we want the cost of drugs down, we are tired of seeing on the TV people going to Canada to buy their medicines cheaper, or why is it that industrialized nations, our competitors, are buying their drugs at a lesser cost?

Just to give you some examples, how about Zocor? In industrialized nations their average pricing is about $65. In the fifth district, it is $104. We need to bring these costs down.

Mr. LINDER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, I wish my friend, the gentleman from Maryland (Mr. HOYER), was here because he played the Solomon card, and I have great respect for Jerry Solomon, and I say semper fi to Jerry, who is probably watching these proceedings and chuckling.

Mr. Speaker, I support this rule. We labored hard for over 25 hours in the Committee on Energy and Commerce, and I know my friends on the Committee on Ways and Means worked deeply as hard. It is not a perfect bill. In fact, the bill coming to the floor stripped out my language on orphan drugs, help for Lou Gehrig's disease, Crohn's disease and Tourette's disease.

But this bill has some positive aspects. First, it fits within the budget. This is critical because any amendment either on the floor would add to the bill which would strip it on a budget point of order or it would shortchange the prescription drug benefit or shortchange the hospital benefits.

Illinois offers a pharmaceutical assistance program for dual eligibles. This bill will assume Federal responsibility for dual eligibles, saving Illinois $2 billion over 8 years.

□ 2200

Individuals who make 175 percent of poverty level will receive full cost-sharing assistance. This covers 34 percent of Illinois' Medicare population, 549,000 people. It increases payments to all hospitals in 2003. It increases payments to community hospitals. It increases DSH payments, adds a 10 percent increase to rural home health care agencies, increases by 10 percent hospice payments.

Mr. Speaker, it is a finely crafted bill that went through the committee process. It is not a perfect bill. It is a bill that we can pass on the floor tonight. I commend my colleagues and look forward to passing this bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI), the Democratic whip.

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, 37 years ago when Medicare first came into existence, there was a big fight over it. The Democrats wholeheartedly supported it. The Republicans opposed it. They still oppose Medicare.

Over the years, they have made statements to that effect. Newt Gingrich when he was Speaker said that he would like to see Medicare, in his words, wither on the vine. And the Republican leader of the House, the gentleman from Texas (Mr. ARMEY) said that Medicare should be no part of a free world. In the debate in the Committee on Rules last night, the gentleman from Georgia (Mr. LINDER) referred to it as a Soviet-style model, what the Democrats were proposing. A Soviet-style model.

They did not support it then. They do not support it now. It is no wonder they have proposed this cruel hoax on America's seniors. To pretend they have a prescription drug benefit that is a guarantee is simply not true. They offer no guarantee, merely a suggestion.

The Republican bill does not contain any defined premium or assurances that prescription drugs will be affordable. In the one State where such a program exists, the monthly premium is $85 per month. That is in Nevada.

Less than one-fifth of the estimated cost of Medicare beneficiaries over the next 10 years will be covered in this bill. The Republican bill does not provide guaranteed access to the drugs seniors need or access to their local pharmacy.

If we had been allowed to present a substitute tonight, which this rule prevents, the Democratic substitute would have provided a guaranteed, affordable prescription drug benefit for all seniors that will amount to an entitlement under Medicare. The gentleman from Texas (Mr. BARTON) said before this is optional; it is not mandatory. He said that himself on the floor here.

Mr. Speaker, imagine a situation where we could have prescription drug benefits for all of our seniors, the quality of life that it would produce, and the cost savings to our budget.

Mr. LINDER. Mr. Speaker, I yield myself 30 seconds to point out a couple of things in the previous statement.

Mr. Speaker, Mr. Gingrich did not ever say Medicare would wither on the vine. This was played out on CNN very clearly when they played the whole statement, not the botched statement the Democrats have been running. He said if we bring competition into the system, the Health Care Financing Administration would wither on the vine.

Secondly, I will point out that the Democrats had a majority here for 40 years. When I first came here, they had a huge majority in both bodies, and the President was a Democratic; and they did not even offer one. I think it is fair to say that the Republicans are making the effort.

Mr. Speaker, I yield 1 minute to the gentlewoman from Pennsylvania (Ms. HART).

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

Ms. HART. Mr. Speaker, I rise in support of the rule and urge Members to also support the bill.

The Centers for Medicaid and Medicare Services did a poll checking out this bill. They estimated that virtually all of the Medicare beneficiaries, that is at least 95 percent of them, would opt for this drug coverage. I doubt that 95 percent of Medicare recipients would be interested in their proposal, but this proposal provides seniors with coverage for prescription drugs that they cannot get today. That means the choice they currently make of leaving that prescription drug bag on the counter because they cannot afford it or paying for it and taking it home is no longer a choice they have to make. They pay for it because they have coverage, they take it home, and their health improves.

All of the senior citizens that I have met with in my district have been asking me to please help them get the coverage for the prescription drugs they need to stay healthy and out of the hospital. That is all they ask. The women and the men. That is what we give them in our bill. I urge support.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, what we have on the floor today is a pitiful, pathetic, puny, pretend plan; a pretend plan that pretends to offer seniors prescription drug care, prescription drugs; but what it really does is gives a lot of money to the insurance companies and says please, we hope you will do something for our seniors, maybe. That is all it is.

They are too something, I will not say what because my words might be taken down, but they will not permit the Democratic plan, which is a straight plan for Medicare to pay for 80 percent of the cost of prescription drugs, to be offered on this floor because they do not have confidence that they could win the debate. They will not permit the two plans to be offered on this floor to be debated because they are afraid in the light of day if the American people see it, they would say, We want a plan. We want what they call the Soviet-style plan, which is what they characterize Medicare as for the last 40 years.

They did not want it then. They still do not want it. And they certainly do not want Medicare coverage for prescription drugs. They want to give more money to the insurance companies and say we hope they will provide it. Fat chance.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. FLETCHER).

Mr. FLETCHER. Mr. Speaker, this evening we are addressing one of the most pressing health care issues in America. I am very disappointed that my colleagues on the other side of the aisle, when we marked up the budget, they absolutely set aside no amount of money, zippo. They did nothing to set aside any money for prescription drugs for seniors. There was no plan in order to provide the funding for the plan that they offered in the committee; and it was a $973 billion plan offered in the committee. There was no way of paying for it. This burden was going to be on our children and grandchildren, and the other side of the aisle offered no single way of paying for it.

Mr. Speaker, they talked about taxes, but they did not offer the tax increase that would have been required. Are they taking it from Social Security? That is where it would have had to come from. Now they talk about controlling cost.

We eliminated the best prices which eliminated the floor. Congressional Budget Office estimates this has the most cost-controlling policy of any plan offered. That means we are going to provide the most competitive prices for drugs. I encourage Members to support the rule and the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, this rule is a fraud. This bill is a fraud. They have come to the floor and said that they are going to do something about prescription drugs for our seniors. Not a dime of this money goes to buy any medicine. It goes to the insurance companies.

I wondered, as I listened to this debate this evening, if my colleagues on the other side of the aisle have bought into the philosophy of that old philosopher and spiritual leader, Brother Dave Gardner, who said, ''When you get a man down, kick him because it gives him incentive to rise above himself.''

They have got our senior citizens down, and now they want to kick them. The Greatest Generation that lived through the Depression, fought World War II and built this Nation, and now we are going to just kick them one more time. And if we cannot kick them, we are going to trick them and try to make them think that we are going to buy them some prescription medicine. This bill does not buy them anything.

Mr. Speaker, this rule should not pass and this bill should not pass because everyone who votes for it is going to have to live forever with the fact that they mistreated our senior citizens, the Greatest Generation one more time.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I would like to speak to my colleagues on the other side of the aisle. The gentlewoman from New York (Ms. SLAUGHTER) and I have been friends for a long time. I have a mom. I have a grandmother that is 93 years old. I have a mother-in-law and two daughters. They just left topside.

What we resent on this side, and they know the gamesmanship when they had the majority, but the inferences that Republicans do not care about our families is wrong. We do. I would give my life for my family. And I would not give a dime to drug companies if I thought it was going to hurt.

Let me give an example. I had pneumonia a couple of years ago; and when I went to the doctor, the price of Augmentin was $110. My wife had prescription drug insurance through the school system where she is a teacher. That drug instead of $110 was $17. That is the free market private system, and we want more and more people to be included in that.

Now, I understand if the other side of the aisle wants a government-controlled health care plan like the former First Lady tried to do with health care. That is their prerogative, but we think that is wrong. We do care about our people. No child should have to apologize because they go to get a drug, and like the President sat right up here, President Clinton, and we take care of that. But to give the inference that Republicans do not care about our families is wrong because we do. We care very much.

I would also say that the gentlewoman from California (Ms. PELOSI), who spoke previously, since 1988, every single year she voted to take 100 percent of the money out of the Social Security trust fund, and here is the documentation.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am told that our physicians take a Hippocratic oath, and that oath says when someone is in need and trusts the physician, do no harm.

I am sad to say that the insurance companies and the Republicans have gotten together, and they are doing great harm. The Republican insurance protection act: value, zero. Zero benefits. Zero to Mom, zero to Dad, zero benefits to the disabled. It is a shame. Realize that our sick seniors are on a roller coaster. Their premiums are not guaranteed, deductibles are high. She is not assured that she will be able to buy the drugs at the pharmacy she trusts, and she gets nothing for a big part of the year, even though she keeps paying premiums.

Mr. Speaker, the Member from Florida said everybody takes money, the Democrats took money. But the Democrats did not take $31 million 5 days before we were supposed to come to the floor of the House and deny us a substitute in order for us to be able to debate this bill on behalf of the American people.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, after looking at this issue from many different angles and for many different weeks, I am going to support this rule. There is a lot more left to do that I am going to be a part of, and I am proud to see that a number of our Members of our leadership have agreed to in terms of addressing and lowering the cost of prescription drugs. But as I listen to this rhetoric tonight, and so much of it is totally uncalled for, one has to believe the statement made in the New Republic in June that the Democrats want this issue on the table because it is an election year, they do not want the bill, they want the issue. I am listening to this, and I know there are a lot of Democrats who want the policy, but I cannot help but think tonight that the Democrats want the politics.

□ 2215

You have to ask yourself, where is your plan? Where is your plan? We know that Mr. DASCHLE and some of the folks across the hall have one, but it is a trillion-dollar plan which will bankrupt Medicare. As you say, you do not like our plan. Well, our plan does not bankrupt Medicare. If you want to protect Medicare, why do you want to bankrupt it?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would again ask all Members to yield to the gavel.

Ms. SLAUGHTER. Mr. Speaker, we had a plan. We had a fine plan. We just could not bring it out here before the American people.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise this evening in opposition to this rule. There is something very, very, very wrong in this House; and my Republican colleagues know it. You know it because you always speak of choice. You always speak about competition. You are always talking about new ideas. But you will not allow them to come to the floor of the House of Representatives.

I represent 650,000 people. The gentleman that just came to the podium said, ''Where is your plan?'' It is right here. But you are afraid to debate it. Why do you not stand up, be men and women, and debate it? Do not be afraid of ideas. So we will protest.

You know that the Democrats since the 1960s and before that have had a love affair with Medicare. You will never drive a wedge between us and Medicare. That is what we wanted to offer. We wanted to bring our plan to the floor of the House. Perhaps you have the votes to beat that, but the disgrace is that you waved the flag and then you waived the democratic rules.

Shame on you. Shame on you for doing that. Go home and explain that to good Republicans, to good independents and to the Democrats in your district. They would never, ever accept that. That is why there is frustration and anger on this side. We can debate these things, but you are afraid to. You do not want to hear an idea, you do not want to hear about choice, and you do not want to hear about competition.

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

Mr. LINDER. Mr. Speaker, I yield myself the balance of my time.

We have had an interesting debate here. We had a parade of female Democrats march down citing the mantra that this bill does nothing for senior women. In fact, not one of them spoke with any particularity to the bill. We had the gentlewoman from Connecticut (Mrs. JOHNSON) step up right after that and list time after time after time where this was of benefit for women across the country and most particularly low-income women.

Women have been abused by our social service programs from Social Security through Medicare. This is the first time that any party or any Congress has made an effort to fix that. This is a genuine improvement on this current circumstance.

Facts do not cease to exist just because they are ignored.

It was a fact that, some time ago, the Democrats controlled this body for 40 years and controlled the White House from time to time in the midst of that and never once put forth this important program.

It was a fact that when I came here in 1993 they had overwhelming majorities and a President who was enthusiastic about taking over the health care system. But they did not ever put on the floor for a discussion or debate any prescription drug program for either side to consider.

It is a fact that the Democrats had an opportunity to put forth a program that fit within the budget agreement that was passed by this House, a discipline that this body and this side of the House took seriously. We put forth a bill that fit within the discipline. They did not. This is our proposal. This is our rule. We urge support for it.

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 SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 218, nays 213, not voting 4, as follows:

[Roll No. 280]

YEAS—218

Aderholt	Culberson	Hastert
Akin	Cunningham	Hastings (WA)
Armey	Davis, Jo Ann	Hayes
Bachus	Davis, Tom	Hayworth
Baker	Deal	Hefley
Ballenger	DeLay	Herger
Barr	DeMint	Hilleary
Bartlett	Diaz-Balart	Hobson
Barton	Doolittle	Hoekstra
Bass	Dreier	Horn
Bereuter	Duncan	Hostettler
Biggert	Dunn	Houghton
Bilirakis	Ehlers	Hulshof
Blunt	Ehrlich	Hunter
Boehlert	Emerson	Hyde
Boehner	English	Isakson
Bonilla	Everett	Issa
Bono	Ferguson	Jenkins
Boozman	Flake	Johnson (CT)
Brady (TX)	Fletcher	Johnson (IL)
Brown (SC)	Foley	Johnson, Sam
Bryant	Forbes	Keller
Burr	Fossella	Kelly
Burton	Frelinghuysen	Kennedy (MN)
Buyer	Gallegly	Kerns
Callahan	Ganske	King (NY)
Calvert	Gekas	Kingston
Camp	Gibbons	Kirk
Cannon	Gilchrest	Knollenberg
Cantor	Gillmor	Kolbe
Capito	Gilman	LaHood
Castle	Goode	Latham
Chabot	Goodlatte	LaTourette
Chambliss	Goss	Leach
Coble	Graham	Lewis (CA)
Collins	Granger	Lewis (KY)
Combest	Graves	Linder
Cooksey	Green (WI)	LoBiondo
Cox	Greenwood	Lucas (OK)
Crane	Grucci	Manzullo
Crenshaw	Hansen	McCrery
Cubin	Hart	McHugh

McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
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
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
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)

NAYS—213

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—4

Clay
Engel
Roukema
Traficant

□ 2243

Mr. WEINER, Ms. KAPTUR, and Mr. BECERRA changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2245

Mrs. JOHNSON of Connecticut. Mr. Speaker, pursuant to House Resolution 465, I call up the bill (H.R. 4954) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize and reform payments and the regulatory structure of the Medicare Program, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to House Resolution 465, the bill is considered as read for amendment.

The text of H.R. 4954 is as follows:

H.R. 4954

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

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES TO BIPA AND SECRETARY; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Modernization and Prescription Drug Act of 2002''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment 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 that section or other provision of the Social Security Act.

(c) BIPA; SECRETARY.—In this Act:

(1) BIPA.—The term ''BIPA'' means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; references to BIPA and Secretary; table of contents.

TITLE I—MEDICARE PRESCRIPTION DRUG BENEFIT

Sec. 101. Establishment of a medicare prescription drug benefit.

''PART D—VOLUNTARY PRESCRIPTION DRUG BENEFIT PROGRAM

''Sec. 1860A. Benefits; eligibility; enrollment; and coverage period.

''Sec. 1860B. Requirements for qualified prescription drug coverage.

''Sec. 1860C. Beneficiary protections for qualified prescription drug coverage.

''Sec. 1860D. Requirements for prescription drug plan (PDP) sponsors; contracts; establishment of standards.

''Sec. 1860E. Process for beneficiaries to select qualified prescription drug coverage.

''Sec. 1860F. Submission of bids.

''Sec. 1860G. Premium and cost-sharing subsidies for low-income individuals.

''Sec. 1860H. Subsidies for all medicare beneficiaries for qualified prescription drug coverage.

''Sec. 1860I. Medicare Prescription Drug Trust Fund.

''Sec. 1860J. Definitions; treatment of references to provisions in part C.

Sec. 102. Offering of qualified prescription drug coverage under the Medicare+Choice program.

Sec. 103. Medicaid amendments.

Sec. 104. Medigap transition.

Sec. 105. Medicare prescription drug discount card endorsement program.

TITLE II—MEDICARE+CHOICE REVITALIZATION AND MEDICARE+CHOICE COMPETITION PROGRAM

Subtitle A—Medicare+Choice Revitalization

Sec. 201. Medicare+Choice improvements.

Sec. 202. Making permanent change in Medicare+Choice reporting deadlines and annual, coordinated election period.

Sec. 203. Avoiding duplicative State regulation.

Sec. 204. Specialized Medicare+Choice plans for special needs beneficiaries.

Sec. 205. Medicare MSAs.

Sec. 206. Extension of reasonable cost and SHMO contracts.

Subtitle B—Medicare+Choice Competition Program

Sec. 211. Medicare+Choice competition program.

Sec. 212. Demonstration program for competitive-demonstration areas.

Sec. 213. Conforming amendments.

TITLE III—RURAL HEALTH CARE IMPROVEMENTS

Sec. 301. Reference to full market basket increase for sole community hospitals.

Sec. 302. Enhanced disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds.

Sec. 303. 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.

Sec. 304. More frequent update in weights used in hospital market basket.

Sec. 305. Improvements to critical access hospital program.

Sec. 306. Extension of temporary increase for home health services furnished in a rural area.

Sec. 307. Reference to 10 percent increase in payment for hospice care furnished in a frontier area and rural hospice demonstration project.

Sec. 308. Reference to priority for hospitals located in rural or small urban areas in redistribution of unused graduate medical education residencies.

Sec. 309. GAO study of geographic differences in payments for physicians' services.

Sec. 310. Providing safe harbor for certain collaborative efforts that benefit medically underserved populations.

TITLE IV—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

Sec. 401. Revision of acute care hospital payment updates.
Sec. 402. 2-year increase in level of adjustment for indirect costs of medical education (IME).
Sec. 403. Recognition of new medical technologies under inpatient hospital PPS.
Sec. 404. Phase-in of Federal rate for hospitals in Puerto Rico.
Sec. 405. Reference to provision relating to enhanced disproportionate share hospital (DSH) payments for rural hospitals and urban hospitals with fewer than 100 beds.
Sec. 406. Reference to provision relating to 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.
Sec. 407. Reference to provision for more frequent updates in the weights used in hospital market basket.
Sec. 408. Reference to provision making improvements to critical access hospital program.for more frequent updates in the weights used in hospital market basket.

Subtitle B—Skilled Nursing Facility Services

Sec. 411. Payment for covered skilled nursing facility services.

Subtitle C—Hospice

Sec. 421. Coverage of hospice consultation services.
Sec. 422. 10 percent increase in payment for hospice care furnished in a frontier area.
Sec. 423. Rural hospice demonstration project.

Subtitle D—Other Provisions

Sec. 431. Demonstration project for use of recovery audit contractors for part A services.

TITLE V—PROVISIONS RELATING TO PART B

Subtitle A—Physicians' Services

Sec. 501. Revision of updates for physicians' services.
Sec. 502. Studies on access to physicians' services.
Sec. 503. MedPAC report on payment for physicians' services.

Subtitle B—Other Services

Sec. 511. Competitive acquisition of certain items and services.
Sec. 512. Payment for ambulance services.
Sec. 513. 1-year extension of moratorium on therapy caps; provisions relating to reports.
Sec. 514. Accelerated implementation of 20 percent coinsurance for hospital outpatient department (OPD) services; other OPD provisions.
Sec. 515. Coverage of an initial preventive physical examination.
Sec. 516. Renal dialysis services.

TITLE VI—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

Sec. 601. Elimination of 15 percent reduction in payment rates under the prospective payment system.
Sec. 602. Establishment of reduced copayment for a home health service episode of care for certain beneficiaries.
Sec. 603. Update in home health services.
Sec. 604. OASIS Task Force; suspension of certain OASIS data collection requirements pending Task Force submittal of report.
Sec. 605. MedPAC study on medicare margins of home health agencies.

Subtitle B—Direct Graduate Medical Education

Sec. 611. Extension of update limitation on high cost programs.
Sec. 612. Redistribution of unused resident positions.

Subtitle C—Other Provisions

Sec. 621. Modifications to Medicare Payment Advisory Commission (MedPAC).
Sec. 622. Demonstration project for disease management for certain medicare beneficiaries with diabetes.
Sec. 623. Demonstration project for medical adult day care services.

TITLE VII—MEDICARE BENEFITS ADMINISTRATION

Sec. 701. Establishment of Medicare Benefits Administration.

TITLE VIII—REGULATORY REDUCTION AND CONTRACTING REFORM

Subtitle A—Regulatory Reform

Sec. 801. Construction; definition of supplier.
Sec. 802. Issuance of regulations.
Sec. 803. Compliance with changes in regulations and policies.
Sec. 804. Reports and studies relating to regulatory reform.

Subtitle B—Contracting Reform

Sec. 811. Increased flexibility in medicare administration.
Sec. 812. Requirements for information security for medicare administrative contractors.

Subtitle C—Education and Outreach

Sec. 821. Provider education and technical assistance.
Sec. 822. Small provider technical assistance demonstration program.
Sec. 823. Medicare provider ombudsman; medicare beneficiary ombudsman.
Sec. 824. Beneficiary outreach demonstration program.

Subtitle D—Appeals and Recovery

Sec. 831. Transfer of responsibility for medicare appeals.
Sec. 832. Process for expedited access to review.
Sec. 833. Revisions to medicare appeals process.
Sec. 834. Prepayment review.
Sec. 835. Recovery of overpayments.
Sec. 836. Provider enrollment process; right of appeal.
Sec. 837. Process for correction of minor errors and omissions on claims without pursuing appeals process.
Sec. 838. Prior determination process for certain items and services; advance beneficiary notices.

Subtitle E—Miscellaneous Provisions

Sec. 841. Policy development regarding evaluation and management (E & M) documentation guidelines.
Sec. 842. Improvement in oversight of technology and coverage.
Sec. 843. Treatment of hospitals for certain services under medicare secondary payor (MSP) provisions.
Sec. 844. EMTALA improvements.
Sec. 845. Emergency Medical Treatment and Active Labor Act (EMTALA) Technical Advisory Group.
Sec. 846. Authorizing use of arrangements with other hospice programs to provide core hospice services in certain circumstances.
Sec. 847. Application of OSHA bloodborne pathogens standard to certain hospitals.
Sec. 848. BIPA-related technical amendments and corrections.
Sec. 849. Conforming authority to waive a program exclusion.
Sec. 850. Treatment of certain dental claims.
Sec. 851. Annual publication of list of national coverage determinations.

TITLE IX—MEDICAID, PUBLIC HEALTH, AND OTHER HEALTH PROVISIONS

Subtitle A—Medicaid Provisions

Sec. 901. National Bipartisan Commission on the Future of Medicaid.
Sec. 902. GAO study on medicaid drug payment system.

Subtitle B—Internet Pharmacies

Sec. 911. Findings.
Sec. 912. Amendment to Federal Food, Drug, and Cosmetic Act.
Sec. 913. Public education.
Sec. 914. Study regarding coordination of regulatory activities.
Sec. 915. Effective date.

Subtitle C—Promotion of Electronic Prescription

Sec. 921. Program of grants to health care providers to implement electronic prescription drug programs.

Subtitle D—Treatment of Rare Diseases

Sec. 931. NIH Office of Rare Diseases at National Institutes of Health.
Sec. 932. Rare disease regional centers of excellence.

Subtitle E—Other Provisions Relating to Drugs

Sec. 941. GAO study regarding direct-to-consumer advertising of prescription drugs.
Sec. 942. Certain health professions programs regarding practice of pharmacy.

''SUBPART 3—PHARMACIST WORKFORCE PROGRAMS

''Sec. 771. Public service announcements.
''Sec. 772. Demonstration project.
''Sec. 773. Information technology.
''Sec. 774. Authorization of appropriations.

TITLE X—HEALTH-CARE RELATED TAX PROVISIONS

Sec. 1001. Eligibility for Archer MSA's extended to account holders of Medicare+Choice MSA's.
Sec. 1002. Adjustment of employer contributions to Combined Benefit Fund to reflect medicare prescription drug subsidy payments.
Sec. 1003. Expansion of human clinical trials qualifying for orphan drug credit.

TITLE I—MEDICARE PRESCRIPTION DRUG BENEFIT

SEC. 101. ESTABLISHMENT OF A MEDICARE PRESCRIPTION DRUG BENEFIT.

(a) IN GENERAL.—Title XVIII is amended—

(1) by redesignating part D as part E; and

(2) by inserting after part C the following new part:

''PART D—VOLUNTARY PRESCRIPTION DRUG BENEFIT PROGRAM

"SEC. 1860A. BENEFITS; ELIGIBILITY; ENROLLMENT; AND COVERAGE PERIOD.

''(a) PROVISION OF QUALIFIED PRESCRIPTION DRUG COVERAGE THROUGH ENROLLMENT IN

PLANS.—Subject to the succeeding provisions of this part, each individual who is entitled to benefits under part A or is enrolled under part B is entitled to obtain qualified prescription drug coverage (described in section 1860B(a)) as follows:

''(1) MEDICARE+CHOICE PLAN.—If the individual is eligible to enroll in a Medicare+Choice plan that provides qualified prescription drug coverage under section 1851(j), the individual may enroll in the plan and obtain coverage through such plan.

''(2) PRESCRIPTION DRUG PLAN.—If the individual is not enrolled in a Medicare+Choice plan that provides qualified prescription drug coverage, the individual may enroll under this part in a prescription drug plan (as defined in section 1860J(a)(5)).

Such individuals shall have a choice of such plans under section 1860E(d).

''(b) GENERAL ELECTION PROCEDURES.—

''(1) IN GENERAL.—An individual eligible to make an election under subsection (a) may elect to enroll in a prescription drug plan under this part, or elect the option of qualified prescription drug coverage under a Medicare+Choice plan under part C, and to change such election only in such manner and form as may be prescribed by regulations of the Administrator of the Medicare Benefits Administration (appointed under section 1808(b)) (in this part referred to as the 'Medicare Benefits Administrator') and only during an election period prescribed in or under this subsection.

''(2) ELECTION PERIODS.—

''(A) IN GENERAL.—Except as provided in this paragraph, the election periods under this subsection shall be the same as the coverage election periods under the Medicare+Choice program under section 1851(e), including—

''(i) annual coordinated election periods; and

''(ii) special election periods.

In applying the last sentence of section 1851(e)(4) (relating to discontinuance of a Medicare+Choice election during the first year of eligibility) under this subparagraph, in the case of an election described in such section in which the individual had elected or is provided qualified prescription drug coverage at the time of such first enrollment, the individual shall be permitted to enroll in a prescription drug plan under this part at the time of the election of coverage under the original fee-for-service plan.

''(B) INITIAL ELECTION PERIODS.—

''(i) INDIVIDUALS CURRENTLY COVERED.—In the case of an individual who is entitled to benefits under part A or enrolled under part B as of November 1, 2004, there shall be an initial election period of 6 months beginning on that date.

''(ii) INDIVIDUAL COVERED IN FUTURE.—In the case of an individual who is first entitled to benefits under part A or enrolled under part B after such date, there shall be an initial election period which is the same as the initial enrollment period under section 1837(d).

''(C) ADDITIONAL SPECIAL ELECTION PERIODS.—The Administrator shall establish special election periods—

''(i) in cases of individuals who have and involuntarily lose prescription drug coverage described in subsection (c)(2)(C);

''(ii) in cases described in section 1837(h) (relating to errors in enrollment), in the same manner as such section applies to part B;

''(iii) in the case of an individual who meets such exceptional conditions (including conditions provided under section 1851(e)(4)(D)) as the Administrator may provide; and

''(iv) in cases of individuals (as determined by the Administrator) who become eligible for prescription drug assistance under title XIX under section 1935(d).

''(c) GUARANTEED ISSUE; COMMUNITY RATING; AND NONDISCRIMINATION.—

''(1) GUARANTEED ISSUE.—

''(A) IN GENERAL.—An eligible individual who is eligible to elect qualified prescription drug coverage under a prescription drug plan or Medicare+Choice plan at a time during which elections are accepted under this part with respect to the plan shall not be denied enrollment based on any health status-related factor (described in section 2702(a)(1) of the Public Health Service Act) or any other factor.

''(B) MEDICARE+CHOICE LIMITATIONS PERMITTED.—The provisions of paragraphs (2) and (3) (other than subparagraph (C)(i), relating to default enrollment) of section 1851(g) (relating to priority and limitation on termination of election) shall apply to PDP sponsors under this subsection.

''(2) COMMUNITY-RATED PREMIUM.—

''(A) IN GENERAL.—In the case of an individual who maintains (as determined under subparagraph (C)) continuous prescription drug coverage since the date the individual first qualifies to elect prescription drug coverage under this part, a PDP sponsor or Medicare+Choice organization offering a prescription drug plan or Medicare+Choice plan that provides qualified prescription drug coverage and in which the individual is enrolled may not deny, limit, or condition the coverage or provision of covered prescription drug benefits or increase the premium under the plan based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act or any other factor.

''(B) LATE ENROLLMENT PENALTY.—In the case of an individual who does not maintain such continuous prescription drug coverage (as described in subparagraph (C)), a PDP sponsor or Medicare+Choice organization may (notwithstanding any provision in this title) adjust the premium otherwise applicable or impose a pre-existing condition exclusion with respect to qualified prescription drug coverage in a manner that reflects additional actuarial risk involved. Such a risk shall be established through an appropriate actuarial opinion of the type described in subparagraphs (A) through (C) of section 2103(c)(4).

''(C) CONTINUOUS PRESCRIPTION DRUG COVERAGE.—An individual is considered for purposes of this part to be maintaining continuous prescription drug coverage on and after the date the individual first qualifies to elect prescription drug coverage under this part if the individual establishes that as of such date the individual is covered under any of the following prescription drug coverage and before the date that is the last day of the 63-day period that begins on the date of termination of the particular prescription drug coverage involved (regardless of whether the individual subsequently obtains any of the following prescription drug coverage):

''(i) COVERAGE UNDER PRESCRIPTION DRUG PLAN OR MEDICARE+CHOICE PLAN.—Qualified prescription drug coverage under a prescription drug plan or under a Medicare+Choice plan.

''(ii) MEDICAID PRESCRIPTION DRUG COVERAGE.—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-inclusive Care for the Elderly (PACE) under section 1934, through a social health maintenance organization (referred to in section 4104(c) of the Balanced Budget Act of 1997), or through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of a interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

''(iii) PRESCRIPTION DRUG COVERAGE UNDER GROUP HEALTH PLAN.—Any outpatient prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan as defined in section 1860H(f)(1), but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

''(iv) PRESCRIPTION DRUG COVERAGE UNDER CERTAIN MEDIGAP POLICIES.—Coverage under a medicare supplemental policy under section 1882 that provides benefits for prescription drugs (whether or not such coverage conforms to the standards for packages of benefits under section 1882(p)(1)), but only if the policy was in effect on January 1, 2005, and if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

''(v) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

''(vi) VETERANS' COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans under chapter 17 of title 38, United States Code, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

''(D) CERTIFICATION.—For purposes of carrying out this paragraph, the certifications of the type described in sections 2701(e) of the Public Health Service Act and in section 9801(e) of the Internal Revenue Code shall also include a statement for the period of coverage of whether the individual involved had prescription drug coverage described in subparagraph (C).

''(E) DISCLOSURE.—

''(i) IN GENERAL.—Each entity that offers coverage of the type described in clause (iii), (iv), (v), or (vi) of subparagraph (C) shall provide for disclosure, consistent with standards established by the Administrator, of whether such coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

''(ii) WAIVER OF LIMITATIONS.—An individual may apply to the Administrator to waive the requirement that coverage of such type provide benefits at least equivalent to the benefits under a qualified prescription drug plan, if the individual establishes that the individual was not adequately informed that such coverage did not provide such level of benefits.

''(F) CONSTRUCTION.—Nothing in this section shall be construed as preventing the disenrollment of an individual from a prescription drug plan or a Medicare+Choice plan based on the termination of an election described in section 1851(g)(3), including for non-payment of premiums or for other reasons specified in subsection (d)(3), which takes into account a grace period described in section 1851(g)(3)(B)(i).

''(3) NONDISCRIMINATION.—A PDP sponsor offering a prescription drug plan shall not establish a service area in a manner that would discriminate based on health or economic status of potential enrollees.

''(d) EFFECTIVE DATE OF ELECTIONS.—

''(1) IN GENERAL.—Except as provided in this section, the Administrator shall provide that elections under subsection (b) take effect at the same time as the Administrator

provides that similar elections under section 1851(e) take effect under section 1851(f).

''(2) NO ELECTION EFFECTIVE BEFORE 2005.—In no case shall any election take effect before January 1, 2005.

''(3) TERMINATION.—The Administrator shall provide for the termination of an election in the case of—

''(A) termination of coverage under both part A and part B; and

''(B) termination of elections described in section 1851(g)(3) (including failure to pay required premiums).

''SEC. 1860B. REQUIREMENTS FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.

''(a) REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of this part and part C, the term 'qualified prescription drug coverage' means either of the following:

''(A) STANDARD COVERAGE WITH ACCESS TO NEGOTIATED PRICES.—Standard coverage (as defined in subsection (b)) and access to negotiated prices under subsection (d).

''(B) ACTUARIALLY EQUIVALENT COVERAGE WITH ACCESS TO NEGOTIATED PRICES.—Coverage of covered outpatient drugs which meets the alternative coverage requirements of subsection (c) and access to negotiated prices under subsection (d), but only if it is approved by the Administrator, as provided under subsection (c).

''(2) PERMITTING ADDITIONAL OUTPATIENT PRESCRIPTION DRUG COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraph (B), nothing in this part shall be construed as preventing qualified prescription drug coverage from including coverage of covered outpatient drugs that exceeds the coverage required under paragraph (1), but any such additional coverage shall be limited to coverage of covered outpatient drugs.

''(B) DISAPPROVAL AUTHORITY.—The Administrator shall review the offering of qualified prescription drug coverage under this part or part C. If the Administrator finds that, in the case of a qualified prescription drug coverage under a prescription drug plan or a Medicare+Choice plan, that the organization or sponsor offering the coverage is engaged in activities intended to discourage enrollment of classes of eligible medicare beneficiaries obtaining coverage through the plan on the basis of their higher likelihood of utilizing prescription drug coverage, the Administrator may terminate the contract with the sponsor or organization under this part or part C.

''(3) APPLICATION OF SECONDARY PAYOR PROVISIONS.—The provisions of section 1852(a)(4) shall apply under this part in the same manner as they apply under part C.

''(b) STANDARD COVERAGE.—For purposes of this part, the 'standard coverage' is coverage of covered outpatient drugs (as defined in subsection (f)) that meets the following requirements:

''(1) DEDUCTIBLE.—The coverage has an annual deductible—

''(A) for 2005, that is equal to $250; or

''(B) for a subsequent year, that is equal to the amount specified under this paragraph for the previous year increased by the percentage specified in paragraph (5) for the year involved.

Any amount determined under subparagraph (B) that is not a multiple of $10 shall be rounded to the nearest multiple of $10.

''(2) LIMITS ON COST-SHARING.—

''(A) IN GENERAL.—The coverage has cost-sharing (for costs above the annual deductible specified in paragraph (1) and up to the initial coverage limit under paragraph (3)) as follows:

''(i) FIRST COPAYMENT RANGE.—For costs above the annual deductible specified in paragraph (1) and up to amount specified in subparagraph (C), the cost-sharing—

''(I) is equal to 20 percent; or

''(II) is actuarially equivalent (using processes established under subsection (e)) to an average expected payment of 20 percent of such costs.

''(ii) SECONDARY COPAYMENT RANGE.—For costs above the amount specified in subparagraph (C) and up to the initial coverage limit, the cost-sharing—

''(I) is equal to 50 percent; or

''(II) is actuarially consistent (using processes established under subsection (e)) with an average expected payment of 50 percent of such costs.

''(B) USE OF TIERED COPAYMENTS.—Nothing in this part shall be construed as preventing a PDP sponsor from applying tiered copayments, so long as such tiered copayments are consistent with subparagraph (A).

''(C) INITIAL COPAYMENT THRESHOLD.—The amount specified in this subparagraph—

''(i) for 2005, is equal to $1,000; or

''(ii) for a subsequent year, is equal to the amount specified in this subparagraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

Any amount determined under clause (ii) that is not a multiple of $10 shall be rounded to the nearest multiple of $10.

''(3) INITIAL COVERAGE LIMIT.—Subject to paragraph (4), the coverage has an initial coverage limit on the maximum costs that may be recognized for payment purposes (above the annual deductible)—

''(A) for 2005, that is equal to $2,000; or

''(B) for a subsequent year, that is equal to the amount specified in this paragraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

Any amount determined under subparagraph (B) that is not a multiple of $25 shall be rounded to the nearest multiple of $25.

''(4) CATASTROPHIC PROTECTION.—

''(A) IN GENERAL.—Notwithstanding paragraph (3), the coverage provides benefits with no cost-sharing after the individual has incurred costs (as described in subparagraph (C)) for covered outpatient drugs in a year equal to the annual out-of-pocket threshold specified in subparagraph (B).

''(B) ANNUAL OUT-OF-POCKET THRESHOLD.—For purposes of this part, the 'annual out-of-pocket threshold' specified in this subparagraph—

''(i) for 2005, is equal to $4,500; or

''(ii) for a subsequent year, is equal to the amount specified in this subparagraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

Any amount determined under clause (ii) that is not a multiple of $100 shall be rounded to the nearest multiple of $100.

''(C) APPLICATION.—In applying subparagraph (A)—

''(i) incurred costs shall only include costs incurred for the annual deductible (described in paragraph (1)), cost-sharing (described in paragraph (2)), and amounts for which benefits are not provided because of the application of the initial coverage limit described in paragraph (3); and

''(ii) such costs shall be treated as incurred only if they are paid by the individual, under section 1860G, or under title XIX and the individual is not reimbursed (through insurance or otherwise) by another person for such costs.

''(5) ANNUAL PERCENTAGE INCREASE.—For purposes of this part, the annual percentage increase specified in this paragraph for a year is equal to the annual percentage increase in average per capita aggregate expenditures for covered outpatient drugs in the United States for medicare beneficiaries, as determined by the Administrator for the 12-month period ending in July of the previous year.

''(c) ALTERNATIVE COVERAGE REQUIREMENTS.—A prescription drug plan or Medicare+Choice plan may provide a different prescription drug benefit design from the standard coverage described in subsection (b) so long as the following requirements are met and the plan applies for, and receives, the approval of the Administrator for such benefit design:

''(1) ASSURING AT LEAST ACTUARIALLY EQUIVALENT COVERAGE.—

''(A) ASSURING EQUIVALENT VALUE OF TOTAL COVERAGE.—The actuarial value of the total coverage (as determined under subsection (e)) is at least equal to the actuarial value (as so determined) of standard coverage.

''(B) ASSURING EQUIVALENT UNSUBSIDIZED VALUE OF COVERAGE.—The unsubsidized value of the coverage is at least equal to the unsubsidized value of standard coverage. For purposes of this subparagraph, the unsubsidized value of coverage is the amount by which the actuarial value of the coverage (as determined under subsection (e)) exceeds the actuarial value of the subsidy payments under section 1860H with respect to such coverage.

''(C) ASSURING STANDARD PAYMENT FOR COSTS AT INITIAL COVERAGE LIMIT.—The coverage is designed, based upon an actuarially representative pattern of utilization (as determined under subsection (e)), to provide for the payment, with respect to costs incurred that are equal to the initial coverage limit under subsection (b)(3), of an amount equal to at least the sum of the following products:

''(i) FIRST COPAYMENT RANGE.—The product of—

''(I) the amount by which the initial copayment threshold described in subsection (b)(2)(C) exceeds the deductible described in subsection (b)(1); and

''(II) 100 percent minus the cost-sharing percentage specified in subsection (b)(2)(A)(i)(I).

''(ii) SECONDARY COPAYMENT RANGE.—The product of—

''(I) the amount by which the initial coverage limit described in subsection (b)(3) exceeds the initial copayment threshold described in subsection (b)(2)(C); and

''(II) 100 percent minus the cost-sharing percentage specified in subsection (b)(2)(A)(ii)(I).

''(2) CATASTROPHIC PROTECTION.—The coverage provides for beneficiaries the catastrophic protection described in subsection (b)(4).

''(d) ACCESS TO NEGOTIATED PRICES.—

''(1) IN GENERAL.—Under qualified prescription drug coverage offered by a PDP sponsor or a Medicare+Choice organization, the sponsor or organization shall provide beneficiaries with access to negotiated prices (including applicable discounts) used for payment for covered outpatient drugs, regardless of the fact that no benefits may be payable under the coverage with respect to such drugs because of the application of cost-sharing or an initial coverage limit (described in subsection (b)(3)). Insofar as a State elects to provide medical assistance under title XIX for a drug based on the prices negotiated by a prescription drug plan under this part, the requirements of section 1927 shall not apply to such drugs.

''(2) DISCLOSURE.—The PDP sponsor or Medicare+Choice organization shall disclose to the Administrator (in a manner specified by the Administrator) the extent to which discounts or rebates made available to the sponsor or organization by a manufacturer are passed through to enrollees through

pharmacies and other dispensers or otherwise. The provisions of section 1927(b)(3)(D) shall apply to information disclosed to the Administrator under this paragraph in the same manner as such provisions apply to information disclosed under such section.

''(e) ACTUARIAL VALUATION; DETERMINATION OF ANNUAL PERCENTAGE INCREASES.—

''(1) PROCESSES.—For purposes of this section, the Administrator shall establish processes and methods—

''(A) for determining the actuarial valuation of prescription drug coverage, including—

''(i) an actuarial valuation of standard coverage and of the reinsurance subsidy payments under section 1860H;

''(ii) the use of generally accepted actuarial principles and methodologies; and

''(iii) applying the same methodology for determinations of alternative coverage under subsection (c) as is used with respect to determinations of standard coverage under subsection (b); and

''(B) for determining annual percentage increases described in subsection (b)(5).

''(2) USE OF OUTSIDE ACTUARIES.—Under the processes under paragraph (1)(A), PDP sponsors and Medicare+Choice organizations may use actuarial opinions certified by independent, qualified actuaries to establish actuarial values.

''(f) COVERED OUTPATIENT DRUGS DEFINED.—

''(1) IN GENERAL.—Except as provided in this subsection, for purposes of this part, the term 'covered outpatient drug' means—

''(A) a drug that may be dispensed only upon a prescription and that is described in subparagraph (A)(i) or (A)(ii) of section 1927(k)(2); or

''(B) a biological product described in clauses (i) through (iii) of subparagraph (B) of such section or insulin described in subparagraph (C) of such section,

and such term includes a vaccine licensed under section 351 of the Public Health Service Act and any use of a covered outpatient drug for a medically accepted indication (as defined in section 1927(k)(6)).

''(2) EXCLUSIONS.—

''(A) IN GENERAL.—Such term does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), or under section 1927(d)(3).

''(B) AVOIDANCE OF DUPLICATE COVERAGE.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered if payment for such drug is available under part A or B for an individual entitled to benefits under part A and enrolled under part B.

''(3) APPLICATION OF FORMULARY RESTRICTIONS.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered under a plan if the plan excludes the drug under a formulary and such exclusion is not successfully appealed under section 1860C(f)(2).

''(4) APPLICATION OF GENERAL EXCLUSION PROVISIONS.—A prescription drug plan or Medicare+Choice plan may exclude from qualified prescription drug coverage any covered outpatient drug—

''(A) for which payment would not be made if section 1862(a) applied to part D; or

''(B) which are not prescribed in accordance with the plan or this part.

Such exclusions are determinations subject to reconsideration and appeal pursuant to section 1860C(f).

''SEC. 1860C. BENEFICIARY PROTECTIONS FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.

''(a) GUARANTEED ISSUE, COMMUNITY-RELATED PREMIUMS, ACCESS TO NEGOTIATED PRICES, AND NONDISCRIMINATION.—For provisions requiring guaranteed issue, community-rated premiums, access to negotiated prices, and nondiscrimination, see sections 1860A(c)(1), 1860A(c)(2), 1860B(d), and 1860F(b), respectively.

''(b) DISSEMINATION OF INFORMATION.—

''(1) GENERAL INFORMATION.—A PDP sponsor shall disclose, in a clear, accurate, and standardized form to each enrollee with a prescription drug plan offered by the sponsor under this part at the time of enrollment and at least annually thereafter, the information described in section 1852(c)(1) relating to such plan. Such information includes the following:

''(A) Access to covered outpatient drugs, including access through pharmacy networks.

''(B) How any formulary used by the sponsor functions.

''(C) Co-payments and deductible requirements, including the identification of the tiered or other co-payment level applicable to each drug (or class of drugs).

''(D) Grievance and appeals procedures.

''(2) DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION.—Upon request of an individual eligible to enroll under a prescription drug plan, the PDP sponsor shall provide the information described in section 1852(c)(2) (other than subparagraph (D)) to such individual.

''(3) RESPONSE TO BENEFICIARY QUESTIONS.—Each PDP sponsor offering a prescription drug plan shall have a mechanism for providing specific information to enrollees upon request. The sponsor shall make available on a timely basis, through an Internet website and in writing upon request, information on specific changes in its formulary.

''(4) CLAIMS INFORMATION.—Each PDP sponsor offering a prescription drug plan must furnish to enrolled individuals in a form easily understandable to such individuals an explanation of benefits (in accordance with section 1806(a) or in a comparable manner) and a notice of the benefits in relation to initial coverage limit and annual out-of-pocket threshold for the current year, whenever prescription drug benefits are provided under this part (except that such notice need not be provided more often than monthly).

''(c) ACCESS TO COVERED BENEFITS.—

''(1) ASSURING PHARMACY ACCESS.—

''(A) IN GENERAL.—The PDP sponsor of the prescription drug plan shall secure the participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access (as determined by the Administrator and including adequate emergency access) for enrolled beneficiaries, in accordance with standards established under section 1860D(e) that ensure such convenient access.

''(B) USE OF POINT-OF-SERVICE SYSTEM.—A PDP sponsor shall establish an optional point-of-service method of operation under which—

''(i) the plan provides access to any or all pharmacies that are not participating pharmacies in its network; and

''(ii) the plan may charge beneficiaries through adjustments in premiums and co-payments any additional costs associated with the point-of-service option.

The additional copayments so charged shall not count toward the application of section 1860B(b).

''(2) USE OF STANDARDIZED TECHNOLOGY.—

''(A) IN GENERAL.—The PDP sponsor of a prescription drug plan shall issue (and reissue, as appropriate) such a card (or other technology) that may be used by an enrolled beneficiary to assure access to negotiated prices under section 1860B(d) for the purchase of prescription drugs for which coverage is not otherwise provided under the prescription drug plan.

''(B) STANDARDS.—

''(i) DEVELOPMENT.—The Administrator shall provide for the development of national standards relating to a standardized format for the card or other technology referred to in subparagraph (A). Such standards shall be compatible with standards established under part C of title XI.

''(ii) APPLICATION OF ADVISORY TASK FORCE.—The advisory task force established under subsection (d)(3)(B)(ii) shall provide recommendations to the Administrator under such subsection regarding the standards developed under clause (i).

''(3) REQUIREMENTS ON DEVELOPMENT AND APPLICATION OF FORMULARIES.—If a PDP sponsor of a prescription drug plan uses a formulary, the following requirements must be met:

''(A) PHARMACY AND THERAPEUTIC (P&T) COMMITTEE.—The sponsor must establish a pharmacy and therapeutic committee that develops and reviews the formulary. Such committee shall include at least one physician and at least one pharmacist both with expertise in the care of elderly or disabled persons and a majority of its members shall consist of individuals who are a physician or a pharmacist (or both).

''(B) FORMULARY DEVELOPMENT.—In developing and reviewing the formulary, the committee shall base clinical decisions on the strength of scientific evidence and standards of practice, including assessing peer-reviewed medical literature, such as randomized clinical trials, pharmacoeconomic studies, outcomes research data, and such other information as the committee determines to be appropriate.

''(C) INCLUSION OF DRUGS IN ALL THERAPEUTIC CATEGORIES.—The formulary must include drugs within each therapeutic category and class of covered outpatient drugs (although not necessarily for all drugs within such categories and classes).

''(D) PROVIDER EDUCATION.—The committee shall establish policies and procedures to educate and inform health care providers concerning the formulary.

''(E) NOTICE BEFORE REMOVING DRUGS FROM FORMULARY.—Any removal of a drug from a formulary shall take effect only after appropriate notice is made available to beneficiaries and physicians.

''(F) GRIEVANCES AND APPEALS RELATING TO APPLICATION OF FORMULARIES.—For provisions relating to grievances and appeals of coverage, see subsections (e) and (f).

''(d) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE; MEDICATION THERAPY MANAGEMENT PROGRAM.—

''(1) IN GENERAL.—The PDP sponsor shall have in place with respect to covered outpatient drugs—

''(A) an effective cost and drug utilization management program, including medically appropriate incentives to use generic drugs and therapeutic interchange, when appropriate;

''(B) quality assurance measures and systems to reduce medical errors and adverse drug interactions, including a medication therapy management program described in paragraph (2) and for years beginning with 2006, an electronic prescription program described in paragraph (3); and

''(C) a program to control fraud, abuse, and waste.

Nothing in this section shall be construed as impairing a PDP sponsor from applying cost management tools (including differential payments) under all methods of operation.

''(2) MEDICATION THERAPY MANAGEMENT PROGRAM.—

''(A) IN GENERAL.—A medication therapy management program described in this paragraph is a program of drug therapy management and medication administration that is designed to assure, with respect to beneficiaries with chronic diseases (such as diabetes, asthma, hypertension, and congestive heart failure) or multiple prescriptions, that covered outpatient drugs under the prescription drug plan are appropriately used to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

''(B) ELEMENTS.—Such program may include—

''(i) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means;

''(ii) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means; and

''(iii) detection of patterns of overuse and underuse of prescription drugs.

''(C) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The program shall be developed in cooperation with licensed pharmacists and physicians.

''(D) CONSIDERATIONS IN PHARMACY FEES.—The PDP sponsor of a prescription drug program shall take into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

''(3) ELECTRONIC PRESCRIPTION PROGRAM.—

''(A) IN GENERAL.—An electronic prescription drug program described in this paragraph is a program that includes at least the following components, consistent with national standards established under subparagraph (B):

''(i) ELECTRONIC TRANSMITTAL OF PRESCRIPTIONS.—Prescriptions are only received electronically, except in emergency cases and other exceptional circumstances recognized by the Administrator.

''(ii) PROVISION OF INFORMATION TO PRESCRIBING HEALTH CARE PROFESSIONAL.—The program provides, upon transmittal of a prescription by a prescribing health care professional, for transmittal by the pharmacist to the professional of information that includes—

''(I) information (to the extent available and feasible) on the drugs being prescribed for that patient and other information relating to the medical history or condition of the patient that may be relevant to the appropriate prescription for that patient;

''(II) cost-effective alternatives (if any) for the use of the drug prescribed; and

''(III) information on the drugs included in the applicable formulary.

To the extent feasible, such program shall permit the prescribing health care professional to provide (and be provided) related information on an interactive, real-time basis.

''(B) STANDARDS.—

''(i) DEVELOPMENT.—The Administrator shall provide for the development of national standards relating to the electronic prescription drug program described in subparagraph (A). Such standards shall be compatible with standards established under part C of title XI.

''(ii) ADVISORY TASK FORCE.—In developing such standards and the standards described in subsection (c)(2)(B)(i) the Administrator shall establish a task force that includes representatives of physicians, hospitals, pharmacists, and technology experts and representatives of the Departments of Veterans Affairs and Defense and other appropriate Federal agencies to provide recommendations to the Administrator on such standards, including recommendations relating to the following:

''(I) The range of available computerized prescribing software and hardware and their costs to develop and implement.

''(II) The extent to which such systems reduce medication errors and can be readily implemented by physicians and hospitals.

''(III) Efforts to develop a common software platform for computerized prescribing.

''(IV) The cost of implementing such systems in the range of hospital and physician office settings, including hardware, software, and training costs.

''(V) Implementation issues as they relate to part C of title XI, and current Federal and State prescribing laws and regulations and their impact on implementation of computerized prescribing.

''(iii) DEADLINES.—

''(I) The Administrator shall constitute the task force under clause (ii) by not later than April 1, 2003.

''(II) Such task force shall submit recommendations to Administrator by not later than January 1, 2004.

''(III) The Administrator shall develop and promulgate the national standards referred to in clause (ii) by not later than July 1, 2004.

''(C) REFERENCE TO AVAILABILITY OF GRANT FUNDS.—Grant funds are authorized under section 399O of the Public Health Service Act to provide assistance to health care providers in implementing electronic prescription drug programs.

''(4) TREATMENT OF ACCREDITATION.—Section 1852(e)(4) (relating to treatment of accreditation) shall apply to prescription drug plans under this part with respect to the following requirements, in the same manner as they apply to Medicare+Choice plans under part C with respect to the requirements described in a clause of section 1852(e)(4)(B):

''(A) Paragraph (1) (including quality assurance), including medication therapy management program under paragraph (2).

''(B) Subsection (c)(1) (relating to access to covered benefits).

''(C) Subsection (g) (relating to confidentiality and accuracy of enrollee records).

''(5) PUBLIC DISCLOSURE OF PHARMACEUTICAL PRICES FOR EQUIVALENT DRUGS.—Each PDP sponsor shall provide that each pharmacy or other dispenser that arranges for the dispensing of a covered outpatient drug shall inform the beneficiary at the time of purchase of the drug of any differential between the price of the prescribed drug to the enrollee and the price of the lowest cost generic drug covered under the plan that is therapeutically equivalent and bioequivalent.

''(e) GRIEVANCE MECHANISM, COVERAGE DETERMINATIONS, AND RECONSIDERATIONS.—

''(1) IN GENERAL.—Each PDP sponsor shall provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the sponsor provides covered benefits) and enrollees with prescription drug plans of the sponsor under this part in accordance with section 1852(f).

''(2) APPLICATION OF COVERAGE DETERMINATION AND RECONSIDERATION PROVISIONS.—A PDP sponsor shall meet the requirements of paragraphs (1) through (3) of section 1852(g) with respect to covered benefits under the prescription drug plan it offers under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

''(3) REQUEST FOR REVIEW OF TIERED FORMULARY DETERMINATIONS.—In the case of a prescription drug plan offered by a PDP sponsor that provides for tiered cost-sharing for drugs included within a formulary and provides lower cost-sharing for preferred drugs included within the formulary, an individual who is enrolled in the plan may request coverage of a nonpreferred drug under the terms applicable for preferred drugs if the prescribing physician determines that the preferred drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

''(f) APPEALS.—

''(1) IN GENERAL.—Subject to paragraph (2), a PDP sponsor shall meet the requirements of paragraphs (4) and (5) of section 1852(g) with respect to drugs not included on any formulary in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

''(2) FORMULARY DETERMINATIONS.—An individual who is enrolled in a prescription drug plan offered by a PDP sponsor may appeal to obtain coverage for a covered outpatient drug that is not on a formulary of the sponsor if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

''(g) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—A PDP sponsor shall meet the requirements of section 1852(h) with respect to enrollees under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to enrollees under part C.

"SEC. 1860D. REQUIREMENTS FOR PRESCRIPTION DRUG PLAN (PDP) SPONSORS; CONTRACTS; ESTABLISHMENT OF STANDARDS.

''(a) GENERAL REQUIREMENTS.—Each PDP sponsor of a prescription drug plan shall meet the following requirements:

''(1) LICENSURE.—Subject to subsection (c), the sponsor is organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a prescription drug plan.

''(2) ASSUMPTION OF FINANCIAL RISK.—

''(A) IN GENERAL.—Subject to subparagraph (B) and section 1860E(d)(2), the entity assumes full financial risk on a prospective basis for qualified prescription drug coverage that it offers under a prescription drug plan and that is not covered under section 1860H.

''(B) REINSURANCE PERMITTED.—The entity may obtain insurance or make other arrangements for the cost of coverage provided to any enrolled member under this part.

''(3) SOLVENCY FOR UNLICENSED SPONSORS.—In the case of a sponsor that is not described in paragraph (1), the sponsor shall meet solvency standards established by the Administrator under subsection (d).

''(b) CONTRACT REQUIREMENTS.—

''(1) IN GENERAL.—The Administrator shall not permit the election under section 1860A of a prescription drug plan offered by a PDP sponsor under this part, and the sponsor shall not be eligible for payments under section 1860G or 1860H, unless the Administrator has entered into a contract under this subsection with the sponsor with respect to the offering of such plan. Such a contract with a sponsor may cover more than one prescription drug plan. Such contract shall provide that the sponsor agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

''(2) NEGOTIATION REGARDING TERMS AND CONDITIONS.—The Administrator shall have the same authority to negotiate the terms and conditions of prescription drug plans under this part as the Director of the Office of Personnel Management has with respect to health benefits plans under chapter 89 of title 5, United States Code. In negotiating the terms and conditions regarding premiums for which information is submitted under section 1860F(a)(2), the Administrator shall take into account the subsidy payments under section 1860H and the adjusted community rate (as defined in section 1854(f)(3)) for the benefits covered.

''(3) INCORPORATION OF CERTAIN MEDICARE+CHOICE CONTRACT REQUIREMENTS.—The following provisions of section 1857 shall apply, subject to subsection (c)(5), to contracts under this section in the same manner as they apply to contracts under section 1857(a):

''(A) MINIMUM ENROLLMENT.—Paragraphs (1) and (3) of section 1857(b).

''(B) CONTRACT PERIOD AND EFFECTIVENESS.—Paragraphs (1) through (3) and (5) of section 1857(c).

''(C) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—Section 1857(d).

''(D) ADDITIONAL CONTRACT TERMS.—Section 1857(e); except that in applying section 1857(e)(2) under this part—

''(i) such section shall be applied separately to costs relating to this part (from costs under part C);

''(ii) in no case shall the amount of the fee established under this subparagraph for a plan exceed 20 percent of the maximum amount of the fee that may be established under subparagraph (B) of such section; and

''(iii) no fees shall be applied under this subparagraph with respect to Medicare+Choice plans.

''(E) INTERMEDIATE SANCTIONS.—Section 1857(g).

''(F) PROCEDURES FOR TERMINATION.—Section 1857(h).

''(4) RULES OF APPLICATION FOR INTERMEDIATE SANCTIONS.—In applying paragraph (3)(E)—

''(A) the reference in section 1857(g)(1)(B) to section 1854 is deemed a reference to this part; and

''(B) the reference in section 1857(g)(1)(F) to section 1852(k)(2)(A)(ii) shall not be applied.

''(c) WAIVER OF CERTAIN REQUIREMENTS TO EXPAND CHOICE.—

''(1) IN GENERAL.—In the case of an entity that seeks to offer a prescription drug plan in a State, the Administrator shall waive the requirement of subsection (a)(1) that the entity be licensed in that State if the Administrator determines, based on the application and other evidence presented to the Administrator, that any of the grounds for approval of the application described in paragraph (2) has been met.

''(2) GROUNDS FOR APPROVAL.—The grounds for approval under this paragraph are the grounds for approval described in subparagraph (B), (C), and (D) of section 1855(a)(2), and also include the application by a State of any grounds other than those required under Federal law.

''(3) APPLICATION OF WAIVER PROCEDURES.—With respect to an application for a waiver (or a waiver granted) under this subsection, the provisions of subparagraphs (E), (F), and (G) of section 1855(a)(2) shall apply.

''(4) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an entity is licensed in accordance with subsection (a)(1) does not deem the entity to meet other requirements imposed under this part for a PDP sponsor.

''(5) REFERENCES TO CERTAIN PROVISIONS.—For purposes of this subsection, in applying provisions of section 1855(a)(2) under this subsection to prescription drug plans and PDP sponsors—

''(A) any reference to a waiver application under section 1855 shall be treated as a reference to a waiver application under paragraph (1); and

''(B) any reference to solvency standards shall be treated as a reference to solvency standards established under subsection (d).

''(d) SOLVENCY STANDARDS FOR NON-LICENSED SPONSORS.—

''(1) ESTABLISHMENT.—The Administrator shall establish, by not later than October 1, 2003, financial solvency and capital adequacy standards that an entity that does not meet the requirements of subsection (a)(1) must meet to qualify as a PDP sponsor under this part.

''(2) COMPLIANCE WITH STANDARDS.—Each PDP sponsor that is not licensed by a State under subsection (a)(1) and for which a waiver application has been approved under subsection (c) shall meet solvency and capital adequacy standards established under paragraph (1). The Administrator shall establish certification procedures for such PDP sponsors with respect to such solvency standards in the manner described in section 1855(c)(2).

''(e) OTHER STANDARDS.—The Administrator shall establish by regulation other standards (not described in subsection (d)) for PDP sponsors and plans consistent with, and to carry out, this part. The Administrator shall publish such regulations by October 1, 2003.

''(f) RELATION TO STATE LAWS.—

''(1) IN GENERAL.—The standards established under this part shall supersede any State law or regulation (other than State licensing laws or State laws relating to plan solvency, except as provided in subsection (d)) with respect to prescription drug plans which are offered by PDP sponsors under this part.

''(2) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to premiums paid to PDP sponsors for prescription drug plans under this part, or with respect to any payments made to such a sponsor by the Administrator under this part.

''SEC. 1860E. PROCESS FOR BENEFICIARIES TO SELECT QUALIFIED PRESCRIPTION DRUG COVERAGE.

''(a) IN GENERAL.—The Administrator shall establish a process for the selection of the prescription drug plan or Medicare+Choice plan which offer qualified prescription drug coverage through which eligible individuals elect qualified prescription drug coverage under this part.

''(b) ELEMENTS.—Such process shall include the following:

''(1) Annual, coordinated election periods, in which such individuals can change the qualifying plans through which they obtain coverage, in accordance with section 1860A(b)(2).

''(2) Active dissemination of information to promote an informed selection among qualifying plans based upon price, quality, and other features, in the manner described in (and in coordination with) section 1851(d), including the provision of annual comparative information, maintenance of a toll-free hotline, and the use of non-Federal entities.

''(3) Coordination of elections through filing with a Medicare+Choice organization or a PDP sponsor, in the manner described in (and in coordination with) section 1851(c)(2).

''(c) MEDICARE+CHOICE ENROLLEE IN PLAN OFFERING PRESCRIPTION DRUG COVERAGE MAY ONLY OBTAIN BENEFITS THROUGH THE PLAN.—An individual who is enrolled under a Medicare+Choice plan that offers qualified prescription drug coverage may only elect to receive qualified prescription drug coverage under this part through such plan.

''(d) ASSURING ACCESS TO A CHOICE OF QUALIFIED PRESCRIPTION DRUG COVERAGE.—

''(1) CHOICE OF AT LEAST TWO PLANS IN EACH AREA.—

''(A) IN GENERAL.—The Administrator shall assure that each individual who is entitled to benefits under part A or enrolled under part B and who is residing in an area in the United States has available, consistent with subparagraph (B), a choice of enrollment in at least two qualifying plans (as defined in paragraph (5)) in the area in which the individual resides, at least one of which is a prescription drug plan.

''(B) REQUIREMENT FOR DIFFERENT PLAN SPONSORS.—The requirement in subparagraph (A) is not satisfied with respect to an area if only one PDP sponsor or Medicare+Choice organization offers all the qualifying plans in the area.

''(2) GUARANTEEING ACCESS TO COVERAGE.—In order to assure access under paragraph (1) and consistent with paragraph (3), the Administrator may provide financial incentives (including partial underwriting of risk) for a PDP sponsor to expand the service area under an existing prescription drug plan to adjoining or additional areas or to establish such a plan (including offering such a plan on a regional or nationwide basis), but only so long as (and to the extent) necessary to assure the access guaranteed under paragraph (1).

''(3) LIMITATION ON AUTHORITY.—In exercising authority under this subsection, the Administrator—

''(A) shall not provide for the full underwriting of financial risk for any PDP sponsor;

''(B) shall not provide for any underwriting of financial risk for a public PDP sponsor with respect to the offering of a nationwide prescription drug plan; and

''(C) shall seek to maximize the assumption of financial risk by PDP sponsors or Medicare+Choice organizations.

''(4) REPORTS.—The Administrator shall, in each annual report to Congress under section 1808(f), include information on the exercise of authority under this subsection. The Administrator also shall include such recommendations as may be appropriate to minimize the exercise of such authority, including minimizing the assumption of financial risk.

''(5) QUALIFYING PLAN DEFINED.—For purposes of this subsection, the term 'qualifying plan' means a prescription drug plan or a Medicare+Choice plan that includes qualified prescription drug coverage.

''SEC. 1860F. SUBMISSION OF BIDS.

''(a) SUBMISSION OF BIDS AND RELATED INFORMATION.—

''(1) IN GENERAL.—Each PDP sponsor shall submit to the Administrator information of the type described in paragraph (2) in the same manner as information is submitted by a Medicare+Choice organization under section 1854(a)(1).

''(2) TYPE OF INFORMATION.—The information described in this paragraph is the following:

''(A) Information on the qualified prescription drug coverage to be provided.

''(B) Information on the actuarial value of the coverage.

''(C) Information on the bid for the coverage, including an actuarial certification of—

''(i) the actuarial basis for such bid;

''(ii) the portion of such bid attributable to benefits in excess of standard coverage; and

''(iii) the reduction in such bid resulting from the subsidy payments provided under section 1860H.

''(D) Such other information as the Administrator may require to carry out this part.

''(3) REVIEW.—The Administrator shall review the information filed under paragraph (2) for the purpose of conducting negotiations under section 1860D(b)(2).

''(b) UNIFORM BID.—

''(1) IN GENERAL.—The bid for a prescription drug plan under this section may not vary among individuals enrolled in the plan in the same service area.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as preventing the imposition of a late enrollment penalty under section 1860A(c)(2)(B).

''(c) COLLECTION.—

''(1) USE OF ELECTRONIC FUNDS TRANSFER MECHANISM OR, AT BENEFICIARY'S OPTION, WITHHOLDING FROM SOCIAL SECURITY PAYMENT.—In accordance with regulations, a PDP sponsor may encourage that enrollees under a plan make payment of the premium established by the plan under this part through an electronic funds transfer mechanism, such as automatic charges of an account at a financial institution or a credit or debit card account, or, at the option of an enrollee, through withholding from benefit payments in the manner provided under section 1840 with respect to monthly premiums under section 1839. All such amounts shall be credited to the Medicare Prescription Drug Trust Fund.

''(2) OFFSETTING.—Reductions in premiums for coverage under parts A and B as a result of a selection of a Medicare+Choice plan may be used to reduce the premium otherwise imposed under paragraph (1).

''(3) PAYMENT OF PLANS.—PDP plans shall receive payment based on bid amounts in the same manner as Medicare+Choice organizations receive payment based on bid amounts under section 1853(a)(1)(A)(ii) except that such payment shall be made from the Medicare Prescription Drug Trust Fund.

''(d) ACCEPTANCE OF BENCHMARK AMOUNT AS FULL PREMIUM FOR SUBSIDIZED LOW-INCOME INDIVIDUALS IF NO STANDARD (OR EQUIVALENT) COVERAGE IN AN AREA.—

''(1) IN GENERAL.—If there is no standard prescription drug coverage (as defined in paragraph (2)) offered in an area, in the case of an individual who is eligible for a premium subsidy under section 1860G and resides in the area, the PDP sponsor of any prescription drug plan offered in the area (and any Medicare+Choice organization that offers qualified prescription drug coverage in the area) shall accept the benchmark bid amount (under section 1860G(b)(2)) as payment in full for the premium charge for qualified prescription drug coverage.

''(2) STANDARD PRESCRIPTION DRUG COVERAGE DEFINED.—For purposes of this subsection, the term 'standard prescription drug coverage' means qualified prescription drug coverage that is standard coverage or that has an actuarial value equivalent to the actuarial value for standard coverage.

"SEC. 1860G. PREMIUM AND COST-SHARING SUBSIDIES FOR LOW-INCOME INDIVIDUALS.

''(a) INCOME-RELATED SUBSIDIES FOR INDIVIDUALS WITH INCOME BELOW 150 PERCENT OF FEDERAL POVERTY LEVEL.—

''(1) FULL PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR INDIVIDUALS WITH INCOME BELOW 150 PERCENT OF FEDERAL POVERTY LEVEL.—In the case of a subsidy eligible individual (as defined in paragraph (4)) who is determined to have income that does not exceed 150 percent of the Federal poverty level, the individual is entitled under this section—

''(A) to an income-related premium subsidy equal to 100 percent of the amount described in subsection (b)(1); and

''(B) subject to subsection (c), to the substitution for the beneficiary cost-sharing described in paragraphs (1) and (2) of section 1860B(b) (up to the initial coverage limit specified in paragraph (3) of such section) of amounts that do not exceed $2 for a multiple source or generic drug (as described in section 1927(k)(7)(A)) and $5 for a non-preferred drug.

''(2) SLIDING SCALE PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR INDIVIDUALS WITH INCOME ABOVE 150, BUT BELOW 175 PERCENT, OF FEDERAL POVERTY LEVEL.—In the case of a subsidy eligible individual who is determined to have income that exceeds 150 percent, but does not exceed 175 percent, of the Federal poverty level, the individual is entitled under this section to—

''(A) an income-related premium subsidy determined on a linear sliding scale ranging from 100 percent of the amount described in subsection (b)(1) for individuals with incomes at 150 percent of such level to 0 percent of such amount for individuals with incomes at 175 percent of such level; and

''(B) subject to subsection (c), to the substitution for the beneficiary cost-sharing described in paragraphs (1) and (2) of section 1860B(b) (up to the initial coverage limit specified in paragraph (3) of such section) of amounts that do not exceed $2 for a multiple source or generic drug (as described in section 1927(k)(7)(A)) and $5 for a non-preferred drug.

''(3) CONSTRUCTION.—Nothing in this section shall be construed as preventing a PDP sponsor from reducing to 0 the cost-sharing otherwise applicable to generic drugs.

''(4) DETERMINATION OF ELIGIBILITY.—

''(A) SUBSIDY ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, subject to subparagraph (D), the term 'subsidy eligible individual' means an individual who—

''(i) is eligible to elect, and has elected, to obtain qualified prescription drug coverage under this part;

''(ii) has income below 175 percent of the Federal poverty line; and

''(iii) meets the resources requirement described in section 1905(p)(1)(C).

''(B) DETERMINATIONS.—The determination of whether an individual residing in a State is a subsidy eligible individual and the amount of such individual's income shall be determined under the State medicaid plan for the State under section 1935(a). In the case of a State that does not operate such a medicaid plan (either under title XIX or under a statewide waiver granted under section 1115), such determination shall be made under arrangements made by the Administrator.

''(C) INCOME DETERMINATIONS.—For purposes of applying this section—

''(i) income shall be determined in the manner described in section 1905(p)(1)(B); and

''(ii) the term 'Federal poverty line' means the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

''(D) TREATMENT OF TERRITORIAL RESIDENTS.—In the case of an individual who is not a resident of the 50 States or the District of Columbia, the individual is not eligible to be a subsidy eligible individual but may be eligible for financial assistance with prescription drug expenses under section 1935(e).

''(E) TREATMENT OF CONFORMING MEDIGAP POLICIES.—For purposes of this section, the term 'qualified prescription drug coverage' includes a medicare supplemental policy described in section 1860H(b)(4).

''(5) INDEXING DOLLAR AMOUNTS.—

''(A) FOR 2006.—The dollar amounts applied under paragraphs (1)(B) and (2)(B) for 2006 shall be the dollar amounts specified in such paragraph increased by the annual percentage increase described in section 1860B(b)(5) for 2006.

''(B) FOR SUBSEQUENT YEARS.—The dollar amounts applied under paragraphs (1)(B) and (2)(B) for a year after 2006 shall be the amounts (under this paragraph) applied under paragraph (1)(B) or (2)(B) for the preceding year increased by the annual percentage increase described in section 1860B(b)(5) (relating to growth in medicare prescription drug costs per beneficiary) for the year involved.

''(b) PREMIUM SUBSIDY AMOUNT.—

''(1) IN GENERAL.—The premium subsidy amount described in this subsection for an individual residing in an area is the benchmark bid amount (as defined in paragraph (2)) for qualified prescription drug coverage offered by the prescription drug plan or the Medicare+Choice plan in which the individual is enrolled.

''(2) BENCHMARK BID AMOUNT DEFINED.—For purposes of this subsection, the term 'benchmark bid amount' means, with respect to qualified prescription drug coverage offered under—

''(A) a prescription drug plan that—

''(i) provides standard coverage (or alternative prescription drug coverage the actuarial value is equivalent to that of standard coverage), the bid amount for enrollment under the plan under this part (determined without regard to any subsidy under this section or any late enrollment penalty under section 1860A(c)(2)(B)); or

''(ii) provides alternative prescription drug coverage the actuarial value of which is greater than that of standard coverage, the bid amount described in clause (i) multiplied by the ratio of (I) the actuarial value of standard coverage, to (II) the actuarial value of the alternative coverage; or

''(B) a Medicare+Choice plan, the portion of the bid amount that is attributable to statutory drug benefits (described in section 1853(a)(1)(A)(ii)(II)).

''(c) RULES IN APPLYING COST-SHARING SUBSIDIES.—

''(1) IN GENERAL.—In applying subsections (a)(1)(B) and (a)(2)(B), nothing in this part shall be construed as preventing a plan or provider from waiving or reducing the amount of cost-sharing otherwise applicable.

''(2) LIMITATION ON CHARGES.—In the case of an individual receiving cost-sharing subsidies under subsection (a)(1)(B) or (a)(2)(B), the PDP sponsor may not charge more than $5 per prescription.

''(3) APPLICATION OF INDEXING RULES.—The provisions of subsection (a)(4) shall apply to the dollar amount specified in paragraph (2) in the same manner as they apply to the dollar amounts specified in subsections (a)(1)(B) and (a)(2)(B).

''(d) ADMINISTRATION OF SUBSIDY PROGRAM.—The Administrator shall provide a process whereby, in the case of an individual who is determined to be a subsidy eligible individual and who is enrolled in prescription drug plan or is enrolled in a Medicare+Choice plan under which qualified prescription drug coverage is provided—

''(1) the Administrator provides for a notification of the PDP sponsor or Medicare+Choice organization involved that the individual is eligible for a subsidy and the amount of the subsidy under subsection (a);

''(2) the sponsor or organization involved reduces the premiums or cost-sharing otherwise imposed by the amount of the applicable subsidy and submits to the Administrator information on the amount of such reduction; and

''(3) the Administrator periodically and on a timely basis reimburses the sponsor or organization for the amount of such reductions.

The reimbursement under paragraph (3) with respect to cost-sharing subsidies may be computed on a capitated basis, taking into account the actuarial value of the subsidies and with appropriate adjustments to reflect differences in the risks actually involved.

''(e) RELATION TO MEDICAID PROGRAM.—

''(1) IN GENERAL.—For provisions providing for eligibility determinations, and additional financing, under the medicaid program, see section 1935.

''(2) MEDICAID PROVIDING WRAP AROUND BENEFITS.—The coverage provided under this part is primary payor to benefits for prescribed drugs provided under the medicaid program under title XIX.

''(3) COORDINATION.—The Administrator shall develop and implement a plan for the coordination of prescription drug benefits under this part with the benefits provided under the medicaid program under title XIX, with particular attention to insuring coordination of payments and prevention of fraud and abuse. In developing and implementing such plan, the Administrator shall involve the Secretary, the States, the data processing industry, pharmacists, and pharmaceutical manufacturers, and other experts.

''SEC. 1860H. SUBSIDIES FOR ALL MEDICARE BENEFICIARIES FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.

''(a) SUBSIDY PAYMENT.—In order to reduce premium levels applicable to qualified prescription drug coverage for all medicare beneficiaries, to reduce adverse selection among prescription drug plans and Medicare+Choice plans that provide qualified prescription drug coverage, and to promote the participation of PDP sponsors under this part, the Administrator shall provide in accordance with this section for payment to a qualifying entity (as defined in subsection (b)) of the following subsidies:

''(1) DIRECT SUBSIDY.—In the case of an individual enrolled in a prescription drug plan, Medicare+Choice plan, or qualified retiree prescription drug plan, a direct subsidy equal to a percentage (specified by the Administrator consistent with subsection (d)(2)) of an amount equal to the actuarial value of the standard drug coverage provided under the respective plan.

''(2) SUBSIDY THROUGH REINSURANCE.—The reinsurance payment amount (as defined in subsection (c)) for excess costs incurred in providing qualified prescription drug coverage—

''(A) for individuals enrolled with a prescription drug plan under this part;

''(B) for individuals enrolled with a Medicare+Choice plan that provides qualified prescription drug coverage under part C; and

''(C) for individuals who are enrolled in a qualified retiree prescription drug plan.

This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Administrator to provide for the payment of amounts provided under this section.

''(b) QUALIFYING ENTITY DEFINED.—For purposes of this section, the term 'qualifying entity' means any of the following that has entered into an agreement with the Administrator to provide the Administrator with such information as may be required to carry out this section:

''(1) A PDP sponsor offering a prescription drug plan under this part.

''(2) A Medicare+Choice organization that provides qualified prescription drug coverage under a Medicare+Choice plan under part C.

''(3) The sponsor of a qualified retiree prescription drug plan (as defined in subsection (f)).

''(c) REINSURANCE PAYMENT AMOUNT.—

''(1) IN GENERAL.—Subject to subsection (d)(2) and paragraph (4), the reinsurance payment amount under this subsection for a qualifying covered individual (as defined in subsection (g)(1)) for a coverage year (as defined in subsection (g)(2)) is equal to the sum of the following:

''(A) For the portion of the individual's gross covered prescription drug costs (as defined in paragraph (3)) for the year that exceeds the initial copayment threshold specified in section 1860B(b)(2)(C), but does not exceed the initial coverage limit specified in section 1860B(b)(3), an amount equal to 30 percent of the allowable costs (as defined in paragraph (2)) attributable to such gross covered prescription drug costs.

''(B) For the portion of the individual's gross covered prescription drug costs for the year that exceeds the annual out-of-pocket threshold specified in 1860B(b)(4)(B), an amount equal to 80 percent of the allowable costs attributable to such gross covered prescription drug costs.

''(2) ALLOWABLE COSTS.—For purposes of this section, the term 'allowable costs' means, with respect to gross covered prescription drug costs under a plan described in subsection (b) offered by a qualifying entity, the part of such costs that are actually paid (net of average percentage rebates) under the plan, but in no case more than the part of such costs that would have been paid under the plan if the prescription drug coverage under the plan were standard coverage.

''(3) GROSS COVERED PRESCRIPTION DRUG COSTS.—For purposes of this section, the term 'gross covered prescription drug costs' means, with respect to an enrollee with a qualifying entity under a plan described in subsection (b) during a coverage year, the costs incurred under the plan (including costs attributable to administrative costs) for covered prescription drugs dispensed during the year, including costs relating to the deductible, whether paid by the enrollee or under the plan, regardless of whether the coverage under the plan exceeds standard coverage and regardless of when the payment for such drugs is made.

''(4) INDEXING DOLLAR AMOUNTS.—

''(A) AMOUNTS FOR 2005.—The dollar amounts applied under paragraph (1) for 2005 shall be the dollar amounts specified in such paragraph.

''(B) FOR 2006.—The dollar amounts applied under paragraph (1) for 2006 shall be the dollar amounts specified in such paragraph increased by the annual percentage increase described in section 1860B(b)(5) for 2006.

''(C) FOR SUBSEQUENT YEARS.—The dollar amounts applied under paragraph (1) for a year after 2006 shall be the amounts (under this paragraph) applied under paragraph (1) for the preceding year increased by the annual percentage increase described in section 1860B(b)(5) (relating to growth in medicare prescription drug costs per beneficiary) for the year involved.

''(D) ROUNDING.—Any amount, determined under the preceding provisions of this paragraph for a year, which is not a multiple of $10 shall be rounded to the nearest multiple of $10.

''(d) ADJUSTMENT OF PAYMENTS.—

''(1) ESTIMATION OF PAYMENTS.—The Administrator shall estimate—

''(A) the total payments to be made (without regard to this subsection) during a year under this section; and

''(B) the total payments to be made by qualifying entities for standard coverage under plans described in subsection (b) during the year.

''(2) ADJUSTMENT.—The Administrator shall proportionally adjust the payments made under this section for a coverage year in such manner so that—

''(A) the total of the payments made for the year under this section is equal to 65 percent of the total payments described in paragraph (1)(B) during the year; and

''(B) the ratio of the total of the payments made for direct subsidies under subsection (a)(1) for the year to the total of the payments made for reinsurance subsidies for the year under subsection (a)(2) is equal to the ratio of 35 to 30.

''(3) RISK ADJUSTMENT.—To the extent the Administrator determines it appropriate to avoid risk selection, the payments made for direct subsidies under subsection (a)(1) are subject to adjustment based upon risk factors specified by the Administrator.

''(e) PAYMENT METHODS.—

''(1) IN GENERAL.—Payments under this section shall be based on such a method as the Administrator determines. The Administrator may establish a payment method by which interim payments of amounts under this section are made during a year based on the Administrator's best estimate of amounts that will be payable after obtaining all of the information.

''(2) SOURCE OF PAYMENTS.—Payments under this section shall be made from the Medicare Prescription Drug Trust Fund.

''(f) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN DEFINED.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified retiree prescription drug plan' means employment-based retiree health coverage (as defined in paragraph (3)(A)) if, with respect to an individual enrolled (or eligible to be enrolled) under this part who is covered under the plan, the following requirements are met:

''(A) ASSURANCE.—The sponsor of the plan shall annually attest, and provide such assurances as the Administrator may require, that the coverage meets or exceeds the requirements for qualified prescription drug coverage.

''(B) AUDITS.—The sponsor (and the plan) shall maintain, and afford the Administrator access to, such records as the Administrator may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage, and the accuracy of payments made.

''(C) PROVISION OF CERTIFICATION OF PRESCRIPTION DRUG COVERAGE.—The sponsor of the plan shall provide for issuance of certifications of the type described in section 1860A(c)(2)(D).

''(2) LIMITATION ON BENEFIT ELIGIBILITY.—No payment shall be provided under this section with respect to an individual who is enrolled under a qualified retiree prescription drug plan unless the individual is—

''(A) enrolled under this part;

''(B) is covered under the plan; and

''(C) is eligible to obtain qualified prescription drug coverage under section 1860A but did not elect such coverage under this part (either through a prescription drug plan or through a Medicare+Choice plan).

''(3) DEFINITIONS.—As used in this section:

''(A) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term 'employment-based retiree health coverage' means health insurance or other coverage of health care costs for individuals enrolled under this part (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

''(B) SPONSOR.—The term 'sponsor' means a plan sponsor, as defined in section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

''(g) GENERAL DEFINITIONS.—For purposes of this section:

''(1) QUALIFYING COVERED INDIVIDUAL.—The term 'qualifying covered individual' means an individual who—

''(A) is enrolled with a prescription drug plan under this part;

''(B) is enrolled with a Medicare+Choice plan that provides qualified prescription drug coverage under part C; or

''(C) is enrolled for benefits under this title and is covered under a qualified retiree prescription drug plan.

''(2) COVERAGE YEAR.—The term 'coverage year' means a calendar year in which covered outpatient drugs are dispensed if a claim for payment is made under the plan for such drugs, regardless of when the claim is paid.

''SEC. 1860I. MEDICARE PRESCRIPTION DRUG TRUST FUND.

''(a) IN GENERAL.—There is created on the books of the Treasury of the United States a trust fund to be known as the 'Medicare Prescription Drug Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part. Except as otherwise provided in this section, the provisions of subsections (b) through (i) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund under such section.

''(b) PAYMENTS FROM TRUST FUND.—

''(1) IN GENERAL.—The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Administrator certifies are necessary to make—

''(A) payments under section 1860G (relating to low-income subsidy payments);

''(B) payments under section 1860H (relating to subsidy payments); and

''(C) payments with respect to administrative expenses under this part in accordance with section 201(g).

''(2) TRANSFERS TO MEDICAID ACCOUNT FOR INCREASED ADMINISTRATIVE COSTS.—The Managing Trustee shall transfer from time to time from the Trust Fund to the Grants to States for Medicaid account amounts the Administrator certifies are attributable to increases in payment resulting from the application of a higher Federal matching percentage under section 1935(b).

''(c) DEPOSITS INTO TRUST FUND.—

''(1) LOW-INCOME TRANSFER.—There is hereby transferred to the Trust Fund, from amounts appropriated for Grants to States for Medicaid, amounts equivalent to the aggregate amount of the reductions in payments under section 1903(a)(1) attributable to the application of section 1935(c).

''(2) APPROPRIATIONS TO COVER GOVERNMENT CONTRIBUTIONS.—There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Trust Fund, an amount equivalent to the amount of payments made from the Trust Fund under subsection (b), reduced by the amount transferred to the Trust Fund under paragraph (1).

''(d) RELATION TO SOLVENCY REQUIREMENTS.—Any provision of law that relates to the solvency of the Trust Fund under this part shall take into account the Trust Fund and amounts receivable by, or payable from, the Trust Fund.

''SEC. 1860J. DEFINITIONS; TREATMENT OF REFERENCES TO PROVISIONS IN PART C.

''(a) DEFINITIONS.—For purposes of this part:

''(1) COVERED OUTPATIENT DRUGS.—The term 'covered outpatient drugs' is defined in section 1860B(f).

''(2) INITIAL COVERAGE LIMIT.—The term 'initial coverage limit' means such limit as established under section 1860B(b)(3), or, in the case of coverage that is not standard coverage, the comparable limit (if any) established under the coverage.

''(3) MEDICARE PRESCRIPTION DRUG TRUST FUND.—The term 'Medicare Prescription Drug Trust Fund' means the Trust Fund created under section 1860I(a).

''(4) PDP SPONSOR.—The term 'PDP sponsor' means an entity that is certified under this part as meeting the requirements and standards of this part for such a sponsor.

''(5) PRESCRIPTION DRUG PLAN.—The term 'prescription drug plan' means health benefits coverage that—

''(A) is offered under a policy, contract, or plan by a PDP sponsor pursuant to, and in accordance with, a contract between the Administrator and the sponsor under section 1860D(b);

''(B) provides qualified prescription drug coverage; and

''(C) meets the applicable requirements of the section 1860C for a prescription drug plan.

''(6) QUALIFIED PRESCRIPTION DRUG COVERAGE.—The term 'qualified prescription drug coverage' is defined in section 1860B(a).

''(7) STANDARD COVERAGE.—The term 'standard coverage' is defined in section 1860B(b).

''(b) APPLICATION OF MEDICARE+CHOICE PROVISIONS UNDER THIS PART.—For purposes of applying provisions of part C under this part with respect to a prescription drug plan and a PDP sponsor, unless otherwise provided in this part such provisions shall be applied as if—

''(1) any reference to a Medicare+Choice plan included a reference to a prescription drug plan;

''(2) any reference to a provider-sponsored organization included a reference to a PDP sponsor;

''(3) any reference to a contract under section 1857 included a reference to a contract under section 1860D(b); and

''(4) any reference to part C included a reference to this part.''.

(b) ADDITIONAL CONFORMING CHANGES.—

(1) CONFORMING REFERENCES TO PREVIOUS PART D.—Any reference in law (in effect before the date of the enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) CONFORMING AMENDMENT PERMITTING WAIVER OF COST-SHARING.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(A) by striking ''and'' at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(G) the waiver or reduction of any cost-sharing imposed under part D of title XVIII.''.

(3) SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this subtitle.

(c) STUDY ON TRANSITIONING PART B PRESCRIPTION DRUG COVERAGE.—Not later than January 1, 2004, the Medicare Benefits Administrator shall submit a report to Congress that makes recommendations regarding methods for providing benefits under part D of title XVIII of the Social Security Act for outpatient prescription drugs for which benefits are provided under part B of such title.

SEC. 102. OFFERING OF QUALIFIED PRESCRIPTION DRUG COVERAGE UNDER THE MEDICARE+CHOICE PROGRAM.

(a) IN GENERAL.—Section 1851 (42 U.S.C. 1395w–21) is amended by adding at the end the following new subsection:

''(j) AVAILABILITY OF PRESCRIPTION DRUG BENEFITS.—

''(1) OFFER OF QUALIFIED PRESCRIPTION DRUG COVERAGE.—

''(A) IN GENERAL.—A Medicare+Choice organization may not offer prescription drug coverage (other than that required under parts A and B) to an enrollee under a Medicare+Choice plan unless such drug coverage is at least qualified prescription drug coverage and unless the requirements of this subsection with respect to such coverage are met.

''(B) CONSTRUCTION.—Nothing in this subsection shall be construed as—

''(i) requiring a Medicare+Choice plan to include coverage of qualified prescription drug coverage; or

''(ii) permitting a Medicare+Choice organization from providing such coverage to an individual who has not elected such coverage under section 1860A(b).

For purposes of this part, an individual who has not elected qualified prescription drug coverage under section 1860A(b) shall be treated as being ineligible to enroll in a Medicare+Choice plan under this part that offers such coverage.

''(2) COMPLIANCE WITH ADDITIONAL BENEFICIARY PROTECTIONS.—With respect to the offering of qualified prescription drug coverage by a Medicare+Choice organization under a Medicare+Choice plan, the organization and plan shall meet the requirements of section 1860C, including requirements relating to information dissemination and grievance and appeals, in the same manner as they apply to a PDP sponsor and a prescription drug plan under part D and shall submit to the Administrator the information described in section 1860F(a)(2). The Administrator shall waive such requirements to the extent the Administrator determines that such requirements duplicate requirements otherwise applicable to the organization or plan under this part.

''(3) AVAILABILITY OF PREMIUM AND COST-SHARING SUBSIDIES FOR LOW-INCOME ENROLLEES AND DIRECT AND REINSURANCE SUBSIDY PAYMENTS FOR ORGANIZATIONS.—For provisions—

''(A) providing premium and cost-sharing subsidies to low-income individuals receiving qualified prescription drug coverage through a Medicare+Choice plan, see section 1860G; and

''(B) providing a Medicare+Choice organization with direct and insurance subsidy payments for providing qualified prescription drug coverage under this part, see section 1860H.

''(4) TRANSITION IN INITIAL ENROLLMENT PERIOD.—Notwithstanding any other provision of this part, the annual, coordinated election period under subsection (e)(3)(B) for 2005 shall be the 6-month period beginning with November 2004.

''(5) QUALIFIED PRESCRIPTION DRUG COVERAGE; STANDARD COVERAGE.—For purposes of this part, the terms 'qualified prescription drug coverage' and 'standard coverage' have the meanings given such terms in section 1860B.''.

(b) CONFORMING AMENDMENTS.—Section 1851 (42 U.S.C. 1395w–21) is amended—

(1) in subsection (a)(1)—

(A) by inserting ''(other than qualified prescription drug benefits)'' after ''benefits'';

(B) by striking the period at the end of subparagraph (B) and inserting a comma; and

(C) by adding after and below subparagraph (B) the following:

''and may elect qualified prescription drug coverage in accordance with section 1860A.''; and

(2) in subsection (g)(1), by inserting ''and section 1860A(c)(2)(B)'' after ''in this subsection''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to coverage provided on or after January 1, 2005.

SEC. 103. MEDICAID AMENDMENTS.

(a) DETERMINATIONS OF ELIGIBILITY FOR LOW-INCOME SUBSIDIES.—

(1) REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(A) by striking ''and'' at the end of paragraph (64);

(B) by striking the period at the end of paragraph (65) and inserting ''; and''; and

(C) by inserting after paragraph (65) the following new paragraph:

''(66) provide for making eligibility determinations under section 1935(a).''.

(2) NEW SECTION.—Title XIX is further amended—

(A) by redesignating section 1935 as section 1936; and

(B) by inserting after section 1934 the following new section:

''SPECIAL PROVISIONS RELATING TO MEDICARE PRESCRIPTION DRUG BENEFIT

''SEC. 1935. (a) REQUIREMENT FOR MAKING ELIGIBILITY DETERMINATIONS FOR LOW-INCOME SUBSIDIES.—As a condition of its State plan under this title under section 1902(a)(66) and receipt of any Federal financial assistance under section 1903(a), a State shall—

''(1) make determinations of eligibility for premium and cost-sharing subsidies under (and in accordance with) section 1860G;

''(2) inform the Administrator of the Medicare Benefits Administration of such determinations in cases in which such eligibility is established; and

''(3) otherwise provide such Administrator with such information as may be required to carry out part D of title XVIII (including section 1860G).

''(b) PAYMENTS FOR ADDITIONAL ADMINISTRATIVE COSTS.—

''(1) IN GENERAL.—The amounts expended by a State in carrying out subsection (a) are, subject to paragraph (2), expenditures reimbursable under the appropriate paragraph of section 1903(a); except that, notwithstanding any other provision of such section, the applicable Federal matching rates with respect to such expenditures under such section shall be increased as follows (but in no case shall the rate as so increased exceed 100 percent):

''(A) For expenditures attributable to costs incurred during 2005, the otherwise applicable Federal matching rate shall be increased by 10 percent of the percentage otherwise payable (but for this subsection) by the State.

''(B)(i) For expenditures attributable to costs incurred during 2006 and each subsequent year through 2013, the otherwise applicable Federal matching rate shall be increased by the applicable percent (as defined in clause (ii)) of the percentage otherwise payable (but for this subsection) by the State.

''(ii) For purposes of clause (i), the 'applicable percent' for—

''(I) 2006 is 20 percent; or

''(II) a subsequent year is the applicable percent under this clause for the previous year increased by 10 percentage points.

''(C) For expenditures attributable to costs incurred after 2013, the otherwise applicable Federal matching rate shall be increased to 100 percent.

''(2) COORDINATION.—The State shall provide the Administrator with such information as may be necessary to properly allocate administrative expenditures described in paragraph (1) that may otherwise be made for similar eligibility determinations.''.

(b) PHASED-IN FEDERAL ASSUMPTION OF MEDICAID RESPONSIBILITY FOR PREMIUM AND COST-SHARING SUBSIDIES FOR DUALLY ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Section 1903(a)(1) (42 U.S.C. 1396b(a)(1)) is amended by inserting before the semicolon the following: '', reduced by the amount computed under section 1935(c)(1) for the State and the quarter''.

(2) AMOUNT DESCRIBED.—Section 1935, as inserted by subsection (a)(2), is amended by adding at the end the following new subsection:

''(c) FEDERAL ASSUMPTION OF MEDICAID PRESCRIPTION DRUG COSTS FOR DUALLY-ELIGIBLE BENEFICIARIES.—

''(1) IN GENERAL.—For purposes of section 1903(a)(1), for a State that is one of the 50 States or the District of Columbia for a calendar quarter in a year (beginning with 2005) the amount computed under this subsection is equal to the product of the following:

''(A) MEDICARE SUBSIDIES.—The total amount of payments made in the quarter under section 1860G (relating to premium and cost-sharing prescription drug subsidies for low-income medicare beneficiaries) that are attributable to individuals who are residents of the State and are entitled to benefits with respect to prescribed drugs under the State plan under this title (including such a plan operating under a waiver under section 1115).

''(B) STATE MATCHING RATE.—A proportion computed by subtracting from 100 percent the Federal medical assistance percentage (as defined in section 1905(b)) applicable to the State and the quarter.

''(C) PHASE-OUT PROPORTION.—The phase-out proportion (as defined in paragraph (2)) for the quarter.

''(2) PHASE-OUT PROPORTION.—For purposes of paragraph (1)(C), the 'phase-out proportion' for a calendar quarter in—

''(A) 2005 is 90 percent;

''(B) a subsequent year before 2014, is the phase-out proportion for calendar quarters in the previous year decreased by 10 percentage points; or

''(C) a year after 2013 is 0 percent.''.

(c) MEDICAID PROVIDING WRAP-AROUND BENEFITS.—Section 1935, as so inserted and amended, is further amended by adding at the end the following new subsection:

''(d) ADDITIONAL PROVISIONS.—

''(1) MEDICAID AS SECONDARY PAYOR.—In the case of an individual who is entitled to qualified prescription drug coverage under a prescription drug plan under part D of title XVIII (or under a Medicare+Choice plan under part C of such title) and medical assistance for prescribed drugs under this title, medical assistance shall continue to be provided under this title for prescribed drugs to the extent payment is not made under the prescription drug plan or the Medicare+Choice plan selected by the individual.

''(2) CONDITION.—A State may require, as a condition for the receipt of medical assistance under this title with respect to prescription drug benefits for an individual eligible to obtain qualified prescription drug coverage described in paragraph (1), that the individual elect qualified prescription drug coverage under section 1860A.''.

(d) TREATMENT OF TERRITORIES.—

(1) IN GENERAL.—Section 1935, as so inserted and amended, is further amended—

(A) in subsection (a) in the matter preceding paragraph (1), by inserting ''subject to subsection (e)'' after ''section 1903(a)'';

(B) in subsection (c)(1), by inserting ''subject to subsection (e)'' after ''1903(a)(1)''; and

(C) by adding at the end the following new subsection:

''(e) TREATMENT OF TERRITORIES.—

''(1) IN GENERAL.—In the case of a State, other than the 50 States and the District of Columbia—

''(A) the previous provisions of this section shall not apply to residents of such State; and

''(B) if the State establishes a plan described in paragraph (2) (for providing medical assistance with respect to the provision of prescription drugs to medicare beneficiaries), the amount otherwise determined under section 1108(f) (as increased under section 1108(g)) for the State shall be increased by the amount specified in paragraph (3).

''(2) PLAN.—The plan described in this paragraph is a plan that—

''(A) provides medical assistance with respect to the provision of covered outpatient drugs (as defined in section 1860B(f)) to low-income medicare beneficiaries; and

''(B) assures that additional amounts received by the State that are attributable to the operation of this subsection are used only for such assistance.

''(3) INCREASED AMOUNT.—

''(A) IN GENERAL.—The amount specified in this paragraph for a State for a year is equal to the product of—

''(i) the aggregate amount specified in subparagraph (B); and

''(ii) the amount specified in section 1108(g)(1) for that State, divided by the sum of the amounts specified in such section for all such States.

''(B) AGGREGATE AMOUNT.—The aggregate amount specified in this subparagraph for—

''(i) 2005, is equal to $20,000,000; or

''(ii) a subsequent year, is equal to the aggregate amount specified in this subparagraph for the previous year increased by annual percentage increase specified in section 1860B(b)(5) for the year involved.

''(4) REPORT.—The Administrator shall submit to Congress a report on the application of this subsection and may include in the report such recommendations as the Administrator deems appropriate.''.

(2) CONFORMING AMENDMENT.—Section 1108(f) (42 U.S.C. 1308(f)) is amended by inserting ''and section 1935(e)(1)(B)'' after ''Subject to subsection (g)''.

SEC. 104. MEDIGAP TRANSITION.

(a) IN GENERAL.—Section 1882 (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

''(v) COVERAGE OF PRESCRIPTION DRUGS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, except as provided in paragraph (3) no new medicare supplemental policy that provides coverage of expenses for prescription drugs may be issued under this section on or after January 1, 2005, to an individual unless it replaces a medicare supplemental policy that was issued to that individual and that provided some coverage of expenses for prescription drugs.

''(2) ISSUANCE OF SUBSTITUTE POLICIES IF OBTAIN PRESCRIPTION DRUG COVERAGE UNDER PART D.—

''(A) IN GENERAL.—The issuer of a medicare supplemental policy—

''(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy that has a benefit package classified as 'A', 'B', 'C', 'D', 'E', 'F', or 'G' (under the standards established under subsection (p)(2)) and that is offered and is available for issuance to new enrollees by such issuer;

''(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

''(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the

policy not later than 63 days after the date of the termination of enrollment described in such paragraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

''(B) INDIVIDUAL COVERED.—An individual described in this subparagraph is an individual who—

''(i) enrolls in a prescription drug plan under part D; and

''(ii) at the time of such enrollment was enrolled and terminates enrollment in a medicare supplemental policy which has a benefit package classified as 'H', 'I', or 'J' under the standards referred to in subparagraph (A)(i) or terminates enrollment in a policy to which such standards do not apply but which provides benefits for prescription drugs.

''(C) ENFORCEMENT.—The provisions of paragraph (4) of subsection (s) shall apply with respect to the requirements of this paragraph in the same manner as they apply to the requirements of such subsection.

''(3) NEW STANDARDS.—In applying subsection (p)(1)(E) (including permitting the NAIC to revise its model regulations in response to changes in law) with respect to the change in benefits resulting from title I of the Medicare Modernization and Prescription Drug Act of 2002, with respect to policies issued to individuals who are enrolled under part D, the changes in standards shall provide for at least two benefit packages (other than the core benefit package) that may provide for coverage of cost-sharing with respect to qualified prescription drug coverage under such part, except that such coverage may not cover the prescription drug deductible under such part. Two benefit packages shall be consistent with the following:

''(A) FIRST NEW POLICY.—The policy described in this subparagraph has the following benefits, notwithstanding any other provision of this section relating to a core benefit package:

''(i) Coverage of 50 percent of the cost-sharing otherwise applicable, except coverage of 100 percent of any cost-sharing otherwise applicable for preventive benefits.

''(ii) No coverage of the part B deductible.

''(iii) Coverage for all hospital coinsurance for long stays (as in the current core benefit package).

''(iv) A limitation on annual out-of-pocket expenditures to $4,000 in 2005 (or, in a subsequent year, to such limitation for the previous year increased by an appropriate inflation adjustment specified by the Secretary).

''(B) SECOND NEW POLICY.—The policy described in this subparagraph has the same benefits as the policy described in subparagraph (A), except as follows:

''(i) Substitute '75 percent' for '50 percent' in clause (i) of such subparagraph.

''(ii) Substitute '$2,000' for '$4,000' in clause (iv) of such subparagraph.

''(4) CONSTRUCTION.—Any provision in this section or in a medicare supplemental policy relating to guaranteed renewability of coverage shall be deemed to have been met through the offering of other coverage under this subsection.''.

SEC. 105. MEDICARE PRESCRIPTION DRUG DISCOUNT CARD ENDORSEMENT PROGRAM.

Title XVIII is amended by inserting after section 1806 the following new section:

''MEDICARE PRESCRIPTION DRUG DISCOUNT CARD ENDORSEMENT PROGRAM

''SEC. 1807. (a) IN GENERAL.—The Secretary (or the Medicare Benefits Administrator pursuant to section 1808(c)(3)(C)) shall establish a program—

''(1) to endorse prescription drug discount card programs that meet the requirements of this section; and

''(2) to make available to medicare beneficiaries information regarding such endorsed programs.

''(b) REQUIREMENTS FOR ENDORSEMENT.—The Secretary may not endorse a prescription drug discount card program under this section unless the program meets the following requirements:

''(1) SAVINGS TO MEDICARE BENEFICIARIES.—The program passes on to medicare beneficiaries who enroll in the program discounts on prescription drugs, including discounts negotiated with manufacturers.

''(2) PROHIBITION ON APPLICATION ONLY TO MAIL ORDER.—The program applies to drugs that are available other than solely through mail order.

''(3) BENEFICIARY SERVICES.—The program provides pharmaceutical support services, such as education and counseling, and services to prevent adverse drug interactions.

''(4) INFORMATION.—The program makes available to medicare beneficiaries through the Internet and otherwise information, including information on enrollment fees, prices charged to beneficiaries, and services offered under the program, that the Secretary identifies as being necessary to provide for informed choice by beneficiaries among endorsed programs.

''(5) DEMONSTRATED EXPERIENCE.—The entity operating the program has demonstrated experience and expertise in operating such a program or a similar program.

''(6) QUALITY ASSURANCE.—The entity has in place adequate procedures for assuring quality service under the program.

''(7) ADDITIONAL BENEFICIARY PROTECTIONS.—The program meets such additional requirements as the Secretary identifies to protect and promote the interest of medicare beneficiaries, including requirements that ensure that beneficiaries are not charged more than the lower of the negotiated retail price or the usual and customary price.

''(c) PROGRAM OPERATION.—The Secretary shall operate the program under this section consistent with the following:

''(1) PROMOTION OF INFORMED CHOICE.—In order to promote informed choice among endorsed prescription drug discount card programs, the Secretary shall provide for the dissemination of information which compares the costs and benefits of such programs in a manner coordinated with the dissemination of educational information on Medicare+Choice plans under part C.

''(2) OVERSIGHT.—The Secretary shall provide appropriate oversight to ensure compliance of endorsed programs with the requirements of this section, including verification of the discounts and services provided.

''(3) USE OF MEDICARE TOLL-FREE NUMBER.—The Secretary shall provide through the 1-800-medicare toll free telephone number for the receipt and response to inquiries and complaints concerning the program and programs endorsed under this section.

''(4) DISQUALIFICATION FOR ABUSIVE PRACTICES.—The Secretary shall revoke the endorsement of a program that the Secretary determines no longer meets the requirements of this section or that has engaged in false or misleading marketing practices.

''(5) ENROLLMENT PRACTICES.—A medicare beneficiary may not be enrolled in more than one endorsed program at any time.

''(d) TRANSITION.—The Secretary shall provide for an appropriate transition and discontinuation of the program under this section at the time prescription drug benefits first become available under part D.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program under this section.''.

TITLE II—MEDICARE+CHOICE REVITALIZATION AND MEDICARE+CHOICE COMPETITION PROGRAM

Subtitle A—Medicare+Choice Revitalization

SEC. 201. MEDICARE+CHOICE IMPROVEMENTS.

(a) EQUALIZING PAYMENTS BETWEEN FEE-FOR-SERVICE AND MEDICARE+CHOICE.—

(1) IN GENERAL.—Section 1853(c)(1) (42 U.S.C. 1395w–23(c)(1)) is amended by adding at the end the following:

''(D) BASED ON 100 PERCENT OF FEE-FOR-SERVICE COSTS.—

''(i) IN GENERAL.—For 2003 and 2004, the adjusted average per capita cost for the year involved, determined under section 1876(a)(4) for the Medicare+Choice payment area for services covered under parts A and B for individuals entitled to benefits under part A and enrolled under part B who are not enrolled in a Medicare+Choice plan under this part for the year, but adjusted to exclude costs attributable to payments under section 1886(h).

''(ii) INCLUSION OF COSTS OF VA AND DOD MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the adjusted average per capita cost under clause (i) for a year, such cost shall be adjusted to include the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Veterans Affairs or the Department of Defense.''.

(2) CONFORMING AMENDMENT.—Such section is further amended, in the matter before subparagraph (A), by striking ''or (C)'' and inserting ''(C), or (D)''.

(b) REVISION OF BLEND.—

(1) REVISION OF NATIONAL AVERAGE USED IN CALCULATION OF BLEND.—Section 1853(c)(4)(B)(i)(II) (42 U.S.C. 1395w–23(c)(4)(B)(i)(II)) is amended by inserting ''who (with respect to determinations for 2003 and for 2004) are enrolled in a Medicare+Choice plan'' after ''the average number of medicare beneficiaries''.

(2) CHANGE IN BUDGET NEUTRALITY.—Section 1853(c) (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1)(A), by inserting ''(for a year before 2003)'' after ''multiplied''; and

(B) in paragraph (5), by inserting ''(before 2003)'' after ''for each year''.

(c) REVISION IN MINIMUM PERCENTAGE INCREASE FOR 2003 AND 2004.—Section 1853(c)(1)(C) (42 U.S.C. 1395w–23(c)(1)(C)) is amended by striking clause (iv) and inserting the following:

''(iv) For 2002, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for 2001.

''(v) For 2003 and 2004, 103 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

''(iv) For 2005 and each succeeding year, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.''.

(d) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES IN CALCULATION OF MEDICARE+CHOICE PAYMENT RATES.—Section 1853(c)(3) (42 U.S.C. 1395w–23(c)(3)) is amended—

(1) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (E)'', and

(2) by adding at the end the following new subparagraph:

''(E) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the

area-specific Medicare+Choice capitation rate under subparagraph (A) for a year (beginning with 2003), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to include in the rate the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Defense or the Department of Veterans Affairs.''.

(e) ANNOUNCEMENT OF REVISED MEDICARE+CHOICE PAYMENT RATES.—Within 2 weeks after the date of the enactment of this Act, the Secretary shall determine, and shall announce (in a manner intended to provide notice to interested parties) Medicare+Choice capitation rates under section 1853 of the Social Security Act (42 U.S.C. 1395w–23) for 2003, revised in accordance with the provisions of this section.

(f) MEDPAC STUDY OF AAPCC.—

(1) STUDY.—The Medicare Payment Advisory Commission shall conduct a study that assesses the method used for determining the adjusted average per capita cost (AAPCC) under section 1876(a)(4) of the Social Security Act (42 U.S.C. 1395mm(a)(4)). Such study shall examine—

(A) the bases for variation in such costs between different areas, including differences in input prices, utilization, and practice patterns;

(B) the appropriate geographic area for payment under the Medicare+Choice program under part C of title XVIII of such Act; and

(C) the accuracy of risk adjustment methods in reflecting differences in costs of providing care to different groups of beneficiaries served under such program.

(2) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include recommendations regarding changes in the methods for computing the adjusted average per capita cost among different areas.

SEC. 202. MAKING PERMANENT CHANGE IN MEDICARE+CHOICE REPORTING DEADLINES AND ANNUAL, COORDINATED ELECTION PERIOD.

(a) CHANGE IN REPORTING DEADLINE.—Section 1854(a)(1) (42 U.S.C. 1395w–24(a)(1)), as amended by section 532(b)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking ''2002, 2003, and 2004 (or July 1 of each other year)'' and inserting ''2002 and each subsequent year (or July 1 of each year before 2002)''.

(b) DELAY IN ANNUAL, COORDINATED ELECTION PERIOD.—Section 1851(e)(3)(B) (42 U.S.C. 1395w–21(e)(3)(B)), as amended by section 532(c)(1)(A) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking ''and after 2005, the month of November before such year and with respect to 2003, 2004, and 2005'' and inserting '', the month of November before such year and with respect to 2003 and any subsequent year''.

(c) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—Section 1853(b)(1) (42 U.S.C. 1395w–23(b)(1)), as amended by section 532(d)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking ''and after 2005 not later than March 1 before the calendar year concerned and for 2004 and 2005'' and inserting ''not later than March 1 before the calendar year concerned and for 2004 and each subsequent year''.

(d) REQUIRING PROVISION OF AVAILABLE INFORMATION COMPARING PLAN OPTIONS.—The first sentence of section 1851(d)(2)(A)(ii) (42 U.S.C. 1395w–21(d)(2)(A)(ii)) is amended by inserting before the period the following: ''to the extent such information is available at the time of preparation of materials for the mailing''.

SEC. 203. AVOIDING DUPLICATIVE STATE REGULATION.

(a) IN GENERAL.—Section 1856(b)(3) (42 U.S.C. 1395w–26(b)(3)) is amended to read as follows:

''(3) RELATION TO STATE LAWS.—The standards established under this subsection shall supersede any State law or regulation (other than State licensing laws or State laws relating to plan solvency) with respect to Medicare+Choice plans which are offered by Medicare+Choice organizations under this part.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 204. SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.

(a) TREATMENT AS COORDINATED CARE PLAN.—Section 1851(a)(2)(A) (42 U.S.C. 1395w–21(a)(2)(A)) is amended by adding at the end the following new sentence: ''Specialized Medicare+Choice plans for special needs beneficiaries (as defined in section 1859(b)(4)) may be any type of coordinated care plan.''.

(b) SPECIALIZED MEDICARE+CHOICE PLAN FOR SPECIAL NEEDS BENEFICIARIES DEFINED.—Section 1859(b) (42 U.S.C. 1395w–29(b)) is amended by adding at the end the following new paragraph:

''(4) SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.—

''(A) IN GENERAL.—The term 'specialized Medicare+Choice plan for special needs beneficiaries' means a Medicare+Choice plan that exclusively serves special needs beneficiaries (as defined in subparagraph (B)).

''(B) SPECIAL NEEDS BENEFICIARY.—The term 'special needs beneficiary' means a Medicare+Choice eligible individual who—

''(i) is institutionalized (as defined by the Secretary);

''(ii) is entitled to medical assistance under a State plan under title XIX; or

''(iii) meets such requirements as the Secretary may determine would benefit from enrollment in such a specialized Medicare+Choice plan described in subparagraph (A) for individuals with severe or disabling chronic conditions.''.

(c) RESTRICTION ON ENROLLMENT PERMITTED.—Section 1859 (42 U.S.C. 1395w–29) is amended by adding at the end the following new subsection:

''(f) RESTRICTION ON ENROLLMENT FOR SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.—In the case of a specialized Medicare+Choice plan (as defined in subsection (b)(4)), notwithstanding any other provision of this part and in accordance with regulations of the Secretary and for periods before January 1, 2007, the plan may restrict the enrollment of individuals under the plan to individuals who are within one or more classes of special needs beneficiaries.''.

(d) REPORT TO CONGRESS.—Not later than December 31, 2005, the Medicare Benefits Administrator shall submit to Congress a report that assesses the impact of specialized Medicare+Choice plans for special needs beneficiaries on the cost and quality of services provided to enrollees. Such report shall include an assessment of the costs and savings to the medicare program as a result of amendments made by subsections (a), (b), and (c).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall take effect upon the date of the enactment of this Act.

(2) DEADLINE FOR ISSUANCE OF REQUIREMENTS FOR SPECIAL NEEDS BENEFICIARIES; TRANSITION.—No later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to establish requirements for special needs beneficiaries under section 1859(b)(4)(B)(iii) of the Social Security Act, as added by subsection (b).

SEC. 205. MEDICARE MSAS.

(a) EXEMPTION FROM QUALITY ASSURANCE PROGRAM REQUIREMENT.—

(1) IN GENERAL.—Section 1852(e)(1) (42 U.S.C. 1395w–22(e)(1)) is amended by inserting ''(other than MSA plans)'' after ''Medicare+Choice plans''.

(2) CONFORMING AMENDMENTS.—Section 1852 (42 U.S.C. 1395w–22) is amended—

(A) in subsection (c)(1)(I), by inserting before the period at the end the following: ''if required under such section''; and

(B) in subparagraphs (A) and (B) of subsection (e)(2), by striking '', a non-network MSA plan,'' and '', NON-NETWORK MSA PLANS,'' each place it appears.

(b) MAKING PROGRAM PERMANENT AND ELIMINATING CAP.—Section 1851(b)(4) (42 U.S.C. 1395w–21(b)(4)) is amended—

(1) in the heading of subparagraph (A), by striking ''ON A DEMONSTRATION BASIS'';

(2) by striking the first sentence of subparagraph (A); and

(3) by striking the second sentence of subparagraph (C).

(c) APPLYING LIMITATIONS ON BALANCE BILLING.—Section 1852(k)(1) (42 U.S.C. 1395w–22(k)(1)) is amended by inserting ''or with an organization offering a MSA plan'' after ''section 1851(a)(2)(A)''.

(d) ADDITIONAL AMENDMENT.—Section 1851(e)(5)(A) (42 U.S.C. 1395w–21(e)(5)(A)) is amended—

(1) by adding ''or'' at the end of clause (i);

(2) by striking '', or'' at the end of clause (ii) and inserting a semicolon; and

(3) by striking clause (iii).

SEC. 206. EXTENSION OF REASONABLE COST AND SHMO CONTRACTS.

(a) REASONABLE COST CONTRACTS.—

(1) IN GENERAL.—Section 1876(h)(5)(C) (42 U.S.C. 1395mm(h)(5)(C)) is amended—

(A) by inserting ''(i)'' after ''(C)'';

(B) by inserting before the period the following: '', except (subject to clause (ii)) in the case of a contract for an area which is not covered in the service area of 1 or more coordinated care Medicare+Choice plans under part C''; and

(C) by adding at the end the following new clause:

''(ii) In the case in which—

''(I) a reasonable cost reimbursement contract includes an area in its service area as of a date that is after December 31, 2003;

''(II) such area is no longer included in such service area after such date by reason of the operation of clause (i) because of the inclusion of such area within the service area of a Medicare+Choice plan; and

''(III) all Medicare+Choice plans subsequently terminate coverage in such area;

such reasonable cost reimbursement contract may be extended and renewed to cover such area (so long as it is not included in the service area of any Medicare+Choice plan).''.

(2) STUDY.—The Medicare Benefits Administrator shall conduct a study of an appropriate transition for plans offered under reasonable cost contracts under section 1876 of the Social Security Act on and after January 1, 2005. Such a transition may take into account whether there are one or more coordinated care Medicare+Choice plans being offered in the areas involved. Not later than February 1, 2004, the Administrator shall submit to Congress a report on such study and shall include recommendations regarding any changes in the amendment made by

paragraph (1) as the Administrator determines to be appropriate.

(b) EXTENSION OF SOCIAL HEALTH MAINTENANCE ORGANIZATION (SHMO) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 4018(b)(1) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking ''the date that is 30 months after the date that the Secretary submits to Congress the report described in section 4014(c) of the Balanced Budget Act of 1997'' and inserting ''December 31, 2004''.

(2) SHMOS OFFERING MEDICARE+CHOICE PLANS.—Nothing in such section 4018 shall be construed as preventing a social health maintenance organization from offering a Medicare+Choice plan under part C of title XVIII of the Social Security Act.

Subtitle B—Medicare+Choice Competition Program

SEC. 211. MEDICARE+CHOICE COMPETITION PROGRAM.

(a) SUBMISSION OF BID AMOUNTS.—Section 1854 (42 U.S.C. 1395w–24) is amended—

(1) by amending the heading to read as follows:

''SUBMISSION OF BID AMOUNTS'';

(2) in subsection (a)(1)(A)—

(A) by striking ''(A)'' and inserting ''(A)(i) if the following year is before 2005,''; and

(B) by inserting before the semicolon at the end the following: '' or (ii) if the following year is 2005 or later, the information described in paragraph (6)(A)''; and

(3) by adding at the end of subsection (a) the following:

''(6) SUBMISSION OF BID AMOUNTS BY MEDICARE+CHOICE ORGANIZATIONS.—

''(A) INFORMATION TO BE SUBMITTED.—The information described in this subparagraph is as follows:

''(i) The monthly aggregate bid amount for provision of all items and services under this part and the actuarial basis for determining such amount.

''(ii) The proportions of such bid amount that are attributable to—

''(I) the provision of statutory non-drug benefits (such portion referred to in this part as the 'unadjusted non-drug monthly bid amount');

''(II) the provision of statutory prescription drug benefits; and

''(III) the provision of non-statutory benefits;

and the actuarial basis for determining such proportions.

''(iii) Such additional information as the Administrator may require to verify the actuarial bases described in clauses (i) and (ii).

''(B) STATUTORY BENEFITS DEFINED.—For purposes of this part:

''(i) The term 'statutory non-drug benefits' means benefits under parts A and B.

''(ii) The term 'statutory prescription drug benefits' means benefits under part D.

''(iii) The term 'statutory benefits' means statutory prescription drug benefits and statutory non-drug benefits.

''(C) ACCEPTANCE AND NEGOTIATION OF BID AMOUNTS.—The Administrator has the authority to negotiate regarding monthly bid amounts submitted under subparagraph (A) (and the proportion described in subparagraph (A)(ii)). The Administrator may reject such a bid amount or proportion if the Administrator determines that such amount or proportion is not supported by the actuarial bases provided under subparagraph (A).''.

(b) PROVIDING FOR BENEFICIARY SAVINGS FOR CERTAIN PLANS.—

(1) IN GENERAL.—Section 1854(b) (42 U.S.C. 1395w–24(b)) is amended—

(A) by adding at the end of paragraph (1) the following new subparagraph:

''(C) BENEFICIARY REBATE RULE.—

''(i) REQUIREMENT.—The Medicare+Choice plan shall provide to the enrollee a monthly rebate equal to 75 percent of the average per capita savings (if any) described in paragraph (3) applicable to the plan and year involved.

''(iii) FORM OF REBATE.—A rebate required under this subparagraph shall be provided—

''(I) through the crediting of the amount of the rebate towards the Medicare+Choice monthly supplementary beneficiary premium or the premium imposed for prescription drug coverage under part D;

''(II) through a direct monthly payment (through electronic funds transfer or otherwise); or

''(III) through other means approved by the Medicare Benefits Administrator,

or any combination thereof.''; and

(B) by adding at the end the following new paragraph:

''(3) COMPUTATION OF AVERAGE PER CAPITA MONTHLY SAVINGS.—For purposes of paragraph (1)(C)(i), the average per capita monthly savings referred to in such paragraph for a Medicare+Choice plan and year is computed as follows:

''(A) DETERMINATION OF STATE-WIDE AVERAGE RISK ADJUSTMENT.—

''(i) IN GENERAL.—The Medicare Benefits Administrator shall determine, at the same time rates are promulgated under section 1853(b)(1) (beginning with 2005), for each State the average of the risk adjustment factors to be applied to enrollees under section 1853(a)(1)(A) in that State. In the case of a State in which a Medicare+Choice plan was offered in the previous year, the Administrator may compute such average based upon risk adjustment factors applied in that State in a previous year.

''(ii) TREATMENT OF NEW STATES.—In the case of a State in which no Medicare+Choice plan was offered in the previous year, the Administrator shall estimate such average. In making such estimate, the Administrator may use average risk adjustment factors applied to comparable States or applied on a national basis.

''(B) DETERMINATION OF RISK ADJUSTED BENCHMARK AND RISK-ADJUSTED BID.—For each Medicare+Choice plan offered in a State, the Administrator shall—

''(i) adjust the fee-for-service area-specific non-drug benchmark amount by the applicable average risk adjustment factor computed under subparagraph (A); and

''(ii) adjust the unadjusted non-drug monthly bid amount by such applicable average risk adjustment factor.

''(C) DETERMINATION OF AVERAGE PER CAPITA MONTHLY SAVINGS.—The average per capita monthly savings described in this subparagraph is equal to the amount (if any) by which—

''(i) the risk-adjusted benchmark amount computed under subparagraph (B)(i), exceeds

''(ii) the risk-adjusted bid computed under subparagraph (B)(ii).

''(D) AUTHORITY TO DETERMINE RISK ADJUSTMENT FOR AREAS OTHER THAN STATES.—The Administrator may provide for the determination and application of risk adjustment factors under this paragraph on the basis of areas other than States.''.

(2) COMPUTATION OF FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BENCHMARK.—Section 1853 (42 U.S.C. 1395w–23) is amended by adding at the end the following new subsection:

''(j) COMPUTATION OF FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BENCHMARK AMOUNT.—For purposes of this part, the term 'fee-for-service area-specific non-drug benchmark amount' means, with respect to a Medicare+Choice payment area for a month in a year, an amount equal to the greater of the following (but in no case less than 1/12 of the rate computed under subsection (c)(1), without regard to subparagraph (A), for the year):

''(1) BASED ON 100 PERCENT OF FEE-FOR-SERVICE COSTS IN THE AREA.—An amount equal to 1/12 of 100 percent (for 2005 through 2007, or 95 percent for 2008 and years thereafter) of the adjusted average per capita cost for the year involved, determined under section 1876(a)(4) for the Medicare+Choice payment area, for the area and the year involved, for services covered under parts A and B for individuals entitled to benefits under part A and enrolled under part B who are not enrolled in a Medicare+Choice plan under this part for the year, and adjusted to exclude from such cost the amount the Medicare Benefits Administrator estimates is payable for costs described in subclauses (I) and (II) of subsection (c)(3)(C)(i) for the year involved and also adjusted in the manner described in subsection (c)(1)(D)(ii) (relating to inclusion of costs of VA and DOD military facility services to medicare-eligible beneficiaries).

''(2) MINIMUM MONTHLY AMOUNT.—The minimum amount specified in this paragraph is the amount specified in subsection (c)(1)(B)(iv) for the year involved.''.

(c) PAYMENT OF PLANS BASED ON BID AMOUNTS.—

(1) IN GENERAL.—Section 1853(a)(1)(A) (42 U.S.C. 1395w–23) is amended by striking ''in an amount'' and all that follows and inserting the following: ''in an amount determined as follows:

''(i) PAYMENT BEFORE 2005.—For years before 2005, the payment amount shall be equal to 1/12 of the annual Medicare+Choice capitation rate (as calculated under subsection (c)) with respect to that individual for that area, reduced by the amount of any reduction elected under section 1854(f)(1)(E) and adjusted under clause (iii).

''(ii) PAYMENT FOR STATUTORY NON-DRUG BENEFITS BEGINNING WITH 2005.—For years beginning with 2005—

''(I) PLANS WITH BIDS BELOW BENCHMARK.—In the case of a plan for which there are average per capita monthly savings described in section 1854(b)(3)(C), the payment under this subsection is equal to the unadjusted non-drug monthly bid amount, adjusted under clause (iii), plus the amount of the monthly rebate computed under section 1854(b)(1)(C)(i) for that plan and year.

''(II) PLANS WITH BIDS AT OR ABOVE BENCHMARK.—In the case of a plan for which there are no average per capita monthly savings described in section 1854(b)(3)(C), the payment amount under this subsection is equal to the fee-for-service area-specific non-drug benchmark amount, adjusted under clause (iii).

''(iii) DEMOGRAPHIC ADJUSTMENT, INCLUDING ADJUSTMENT FOR HEALTH STATUS.—The Administrator shall adjust the payment amount under clause (i), the unadjusted non-drug monthly bid amount under clause (ii)(I), and the fee-for-service area-specific non-drug benchmark amount under clause (ii)(II) for such risk factors as age, disability status, gender, institutional status, and such other factors as the Administrator determines to be appropriate, including adjustment for health status under paragraph (3), so as to ensure actuarial equivalence. The Administrator may add to, modify, or substitute for such adjustment factors if such changes will improve the determination of actuarial equivalence.

''(iv) REFERENCE TO SUBSIDY PAYMENT FOR STATUTORY DRUG BENEFITS.—In the case in which an enrollee is enrolled under part D, the Medicare+Choice organization also is entitled to a subsidy payment amount under section 1860H.''.

(d) CONFORMING AMENDMENTS.—

(1) PROTECTION AGAINST BENEFICIARY SELECTION.—Section 1852(b)(1)(A) (42 U.S.C. 1395w–22(b)(1)(A)) is amended by adding at the end the following: ''The Administrator shall not approve a plan of an organization if the Administrator determines that the benefits are designed to substantially discourage enrollment by certain Medicare+Choice eligible individuals with the organization.''.

(2) CONFORMING AMENDMENT TO PREMIUM TERMINOLOGY.—Subparagraphs (A) and (B) of section 1854(b)(2) (42 U.S.C. 1395w–24(b)(2)) are amended to read as follows:

''(A) MEDICARE+CHOICE MONTHLY BASIC BENEFICIARY PREMIUM.—The term 'Medicare+Choice monthly basic beneficiary premium' means, with respect to a Medicare+Choice plan—

''(i) described in section 1853(a)(1)(A)(ii)(I) (relating to plans providing rebates), zero; or

''(ii) described in section 1853(a)(1)(A)(ii)(II), the amount (if any) by which the unadjusted non-drug monthly bid amount exceeds the fee-for-service area-specific non-drug benchmark amount.

''(B) MEDICARE+CHOICE MONTHLY SUPPLEMENTAL BENEFICIARY PREMIUM.—The term 'Medicare+Choice monthly supplemental beneficiary premium' means, with respect to a Medicare+Choice plan, the portion of the aggregate monthly bid amount submitted under clause (i) of subsection (a)(6)(A) for the year that is attributable under such section to the provision of nonstatutory benefits.''.

(3) REQUIREMENT FOR UNIFORM BID AMOUNTS.—Section 1854(c) (42 U.S.C. 1395w–24(c)) is amended to read as follows:

''(c) UNIFORM BID AMOUNTS.—The Medicare+Choice monthly bid amount submitted under subsection (a)(6) of a Medicare+Choice organization under this part may not vary among individuals enrolled in the plan.''.

(4) PERMITTING BENEFICIARY REBATES.—

(A) Section 1851(h)(4)(A) (42 U.S.C. 1395w–21(h)(4)(A)) is amended by inserting ''except as provided under section 1854(b)(1)(C)'' after ''or otherwise''.

(B) Section 1854(d) (42 U.S.C. 1395w–24(d)) is amended by inserting '', except as provided under subsection (b)(1)(C),'' after ''and may not provide''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and premiums for months beginning with January 2005.

SEC. 212. DEMONSTRATION PROGRAM FOR COMPETITIVE-DEMONSTRATION AREAS.

(a) IDENTIFICATION OF COMPETITIVE-DEMONSTRATION AREAS FOR DEMONSTRATION PROGRAM; COMPUTATION OF CHOICE NON-DRUG BENCHMARKS.—Section 1853, as amended by section 211(b)(2), is amended by adding at the end the following new subsection:

''(k) ESTABLISHMENT OF COMPETITIVE DEMONSTRATION PROGRAM.—

''(1) DESIGNATION OF COMPETITIVE-DEMONSTRATION AREAS AS PART OF PROGRAM.—

''(A) IN GENERAL.—For purposes of this part, the Administrator shall establish a demonstration program under which the Administrator designates Medicare+Choice areas as competitive-demonstration areas consistent with the following limitations:

''(i) LIMITATION ON NUMBER OF AREAS THAT MAY BE DESIGNATED.—The Administrator may not designate more than 4 areas as competitive-demonstration areas.

''(ii) LIMITATION ON PERIOD OF DESIGNATION OF ANY AREA.—The Administrator may not designate any area as a competitive-demonstration area for a period of more than 2 years.

The Administrator has the discretion to decide whether or not to designate as a competitive-demonstration area an area that qualifies for such designation.

''(B) QUALIFICATIONS FOR DESIGNATION.—For purposes of this title, a Medicare+Choice area (which is a metropolitan statistical area or other area with a substantial number of Medicare+Choice enrollees) may not be designated as a 'competitive-demonstration area' for a 2-year period beginning with a year unless the Administrator determines, by such date before the beginning of the year as the Administrator determines appropriate, that—

''(i) there will be offered during the open enrollment period under this part before the beginning of the year at least 2 Medicare+Choice plans (in addition to the fee-for-service program under parts A and B), each offered by a different Medicare+Choice organization; and

''(ii) during March of the previous year at least 50 percent of the number of Medicare+Choice eligible individuals who reside in the area were enrolled in a Medicare+Choice plan.

''(2) CHOICE NON-DRUG BENCHMARK AMOUNT.—For purposes of this part, the term 'choice non-drug benchmark amount' means, with respect to a Medicare+Choice payment area for a month in a year, the sum of the 2 components described in paragraph (3) for the area and year. The Administrator shall compute such benchmark amount for each competitive-demonstration area before the beginning of each annual, coordinated election period under section 1851(e)(3)(B) for each year (beginning with 2005) in which it is designated as such an area.

''(3) 2 COMPONENTS.—For purposes of paragraph (2), the 2 components described in this paragraph for an area and a year are the following:

''(A) FEE-FOR-SERVICE COMPONENT WEIGHTED BY NATIONAL FEE-FOR-SERVICE MARKET SHARE.—The product of the following:

''(i) NATIONAL FEE-FOR-SERVICE MARKET SHARE.—The national fee-for-service market share percentage (determined under paragraph (5)) for the year.

''(ii) FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BID.—The fee-for-service area-specific non-drug bid (as defined in paragraph (6)) for the area and year.

''(B) M+C COMPONENT WEIGHTED BY NATIONAL MEDICARE+CHOICE MARKET SHARE.—The product of the following:

''(i) NATIONAL MEDICARE+CHOICE MARKET SHARE.—1 minus the national fee-for-service market share percentage for the year.

''(ii) WEIGHTED AVERAGE OF PLAN BIDS IN AREA.—The weighted average of the plan bids for the area and year (as determined under paragraph (4)(A)).

''(4) DETERMINATION OF WEIGHTED AVERAGE BIDS FOR AN AREA.—

''(A) IN GENERAL.—For purposes of paragraph (3)(B)(ii), the weighted average of plan bids for an area and a year is the sum of the following products for Medicare+Choice plans described in subparagraph (C) in the area and year:

''(i) PROPORTION OF EACH PLAN'S ENROLLEES IN THE AREA.—The number of individuals described in subparagraph (B), divided by the total number of such individuals for all Medicare+Choice plans described in subparagraph (C) for that area and year.

''(ii) MONTHLY NON-DRUG BID AMOUNT.—The unadjusted non-drug monthly bid amount.

''(B) COUNTING OF INDIVIDUALS.—The Administrator shall count, for each Medicare+Choice plan described in subparagraph (C) for an area and year, the number of individuals who reside in the area and who were enrolled under such plan under this part during March of the previous year.

''(C) EXCLUSION OF PLANS NOT OFFERED IN PREVIOUS YEAR.—For an area and year, the Medicare+Choice plans described in this subparagraph are plans that are offered in the area and year and were offered in the area in March of the previous year.

''(5) COMPUTATION OF NATIONAL FEE-FOR-SERVICE MARKET SHARE PERCENTAGE.—The Administrator shall determine, for a year, the proportion (in this subsection referred to as the 'national fee-for-service market share percentage') of Medicare+Choice eligible individuals who during March of the previous year were not enrolled in a Medicare+Choice plan.

''(6) FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BID.—For purposes of this part, the term 'fee-for-service area-specific non-drug bid' means, for an area and year, the amount described in section 1853(j)(1) for the area and year, except that any reference to a percent of less than 100 percent shall be deemed a reference to 100 percent.''.

(b) APPLICATION OF CHOICE NON-DRUG BENCHMARK IN COMPETITIVE-DEMONSTRATION AREAS.—

(1) IN GENERAL.—Section 1854 is amended—

(A) in subsection (b)(1)(C)(i), as added by section 211(b)(1)(A), by striking ''(i) REQUIREMENT.—If'' and inserting ''(i) REQUIREMENT FOR NON-COMPETITIVE-DEMONSTRATION AREAS.—In the case of a Medicare+Choice payment area that is not a competitive-demonstration area designated under section 1853(k)(1), if'';

(B) in subsection (b)(1)(C), as so added, by inserting after clause (i) the following new clause:

''(ii) REQUIREMENT FOR COMPETITIVE-DEMONSTRATION AREAS.—In the case of a Medicare+Choice payment area that is designated as a competitive-demonstration area under section 1853(k)(1), if there are average per capita monthly savings described in paragraph (4) for a Medicare+Choice plan and year, the Medicare+Choice plan shall provide to the enrollee a monthly rebate equal to 75 percent of such savings.'';

(C) by adding at the end of subsection (b), as amended by section 211(b)(1), the following new paragraph:

''(4) COMPUTATION OF AVERAGE PER CAPITA MONTHLY SAVINGS FOR COMPETITIVE-DEMONSTRATION AREAS.—For purposes of paragraph (1)(C)(ii), the average per capita monthly savings referred to in such paragraph for a Medicare+Choice plan and year shall be computed in the same manner as the average per capita monthly savings is computed under paragraph (3) except that the reference to the fee-for-service area-specific non-drug benchmark in paragraph (3)(B)(i) (or to the benchmark amount as adjusted under paragraph (3)(C)(i)) is deemed to be a reference to the choice non-drug benchmark amount (or such amount as adjusted in the manner described in paragraph (3)(B)(i)).''; and

(D) in subsection (d), as amended by section 211(d)(4), by inserting ''and subsection (b)(1)(D)'' after ''subsection (b)(1)(C),''.

(2) CONFORMING AMENDMENTS.—

(A) PAYMENT OF PLANS.—Section 1853(a)(1)(A)(ii), as amended by section 211(c)(1), is amended—

(i) in subclause (I), by inserting ''(or, in the case of a competitive-demonstration area, the choice non-drug benchmark amount)'' after ''benchmark amount''; and

(ii) in subclauses (I) and (II), by inserting ''(or, in the case of a competitive-demonstration area, described in section 1854(b)(4))'' after ''section 1854(b)(1)(C)''.

(B) DEFINITION OF MONTHLY BASIC PREMIUM.—Section 1854(b)(2)(A)(ii), as amended by section 211(d)(2), is amended by inserting ''(or, in the case of a competitive-demonstration area, the choice non-drug benchmark amount)'' after ''benchmark amount''.

(c) PREMIUM ADJUSTMENT.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

''(h)(1) In the case of an individual who resides in a competitive-demonstration area designated under section 1851(k)(1) and who is not enrolled in a Medicare+Choice plan under part C, the monthly premium otherwise applied under this part (determined without regard to subsections (b) and (f) or any adjustment under this subsection) shall be adjusted as follows: If the fee-for-service area-specific non-drug bid (as defined in section 1853(k)(6)) for the Medicare+Choice area in which the individual resides for a month—

''(A) does not exceed the choice non-drug benchmark (as determined under section 1853(k)(2)) for such area, the amount of the premium for the individual for the month shall be reduced by an amount equal to 75 percent of the amount by which such benchmark exceeds such fee-for-service bid; or

''(B) exceeds such choice non-drug benchmark, the amount of the premium for the individual for the month shall be adjusted to ensure that—

''(i) the sum of the amount of the adjusted premium and the choice non-drug benchmark for the area, is equal to

''(ii) the sum of the unadjusted premium plus amount of the fee-for-service area-specific non-drug bid for the area.

''(2) Nothing in this subsection shall be construed as preventing a reduction under paragraph (1)(A) in the premium otherwise applicable under this part to zero or from requiring the provision of a rebate to the extent such premium would otherwise be required to be less than zero.

''(3) The adjustment in the premium under this subsection shall be effected in such manner as the Medicare Benefits Administrator determines appropriate.

''(4) In order to carry out this subsection (insofar as it is effected through the manner of collection of premiums under 1840(a)), the Medicare Benefits Administrator shall transmit to the Commissioner of Social Security—

''(A) at the beginning of each year, the name, social security account number, and the amount of the adjustment (if any) under this subsection for each individual enrolled under this part for each month during the year; and

''(B) periodically throughout the year, information to update the information previously transmitted under this paragraph for the year.''.

(d) CONFORMING AMENDMENT.—Section 1844(c) (42 U.S.C. 1395w(c)) is amended by inserting ''and without regard to any premium adjustment effected under section 1839(h)'' before the period at the end.

(e) REPORT ON DEMONSTRATION PROGRAM.—Not later than 6 months after the date on which the designation of the 4th competitive-demonstration area under section 1851(k)(1) of the Social Security Act ends, the Medicare Payment Advisory Commission shall submit to Congress a report on the impact of the demonstration program under the amendments made by this section, including such impact on premiums of medicare beneficiaries, savings to the medicare program, and on adverse selection.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and premiums for periods beginning on or after January 1, 2005.

SEC. 213. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS RELATING TO BIDS.—

(1) Section 1854 (42 U.S.C. 1395w–24) is amended—

(A) in the heading by inserting ''AND BID AMOUNTS'' after ''PREMIUMS'';

(B) in the heading of subsection (a), by inserting ''AND BID AMOUNTS'' after ''PREMIUMS''; and

(C) in subsection (a)(5)(A), by inserting ''paragraphs (2), (3), and (4) of'' after ''filed under''.

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) ANNUAL DETERMINATION AND ANNOUNCEMENT OF CERTAIN FACTORS.—Section 1853(b) (42 U.S.C. 1395w–23(b)) is amended—

(A) in paragraph (1), by striking ''the calendar year concerned'' and all that follows and inserting the following: ''the calendar year concerned with respect to each Medicare+Choice payment area, the following:

''(A) PRE-COMPETITION INFORMATION.—For years before 2005, the following:

''(i) MEDICARE+CHOICE CAPITATION RATES.—The annual Medicare+Choice capitation rate for each Medicare+Choice payment area for the year.

''(ii) ADJUSTMENT FACTORS.—The risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

''(B) COMPETITION INFORMATION.—For years beginning with 2005, the following:

''(i) BENCHMARKS.—The fee-for-service area-specific non-drug benchmark under section 1853(j) and, if applicable, the choice non-drug benchmark under section 1853(k)(2), for the year involved and, if applicable, the national fee-for-service market share percentage.

''(ii) ADJUSTMENT FACTORS.—The adjustment factors applied under section 1853(a)(1)(A)(iii) (relating to demographic adjustment), section 1853(a)(1)(B) (relating to adjustment for end-stage renal disease), and section 1853(a)(3) (relating to health status adjustment).

''(iii) PROJECTED FEE-FOR-SERVICE BID.—In the case of a competitive area, the projected fee-for-service area-specific non-drug bid (as determined under subsection (k)(6)) for the area.

''(iv) INDIVIDUALS.—The number of individuals counted under subsection (k)(4)(B) and enrolled in each Medicare+Choice plan in the area.''; and

(B) in paragraph (3), by striking ''in sufficient detail'' and all that follows up to the period at the end.

(2) REPEAL OF PROVISIONS RELATING TO ADJUSTED COMMUNITY RATE (ACR).—

(A) IN GENERAL.—Subsections (e) and (f) of section 1854 (42 U.S.C. 1395w–24) are repealed.

(B) CONFORMING AMENDMENT.—Section 1839(a)(2) (42 U.S.C. 1395r(a)(2)) is amended by striking '', and to reflect'' and all that follows and inserting a period.

(3) PROSPECTIVE IMPLEMENTATION OF NATIONAL COVERAGE DETERMINATIONS.—Section 1852(a)(5) (42 U.S.C. 1395w–22(a)(5)) is amended to read as follows:

''(5) PROSPECTIVE IMPLEMENTATION OF NATIONAL COVERAGE DETERMINATIONS.—The Secretary shall only implement a national coverage determination that will result in a significant change in the costs to a Medicare+Choice organization in a prospective manner that applies to announcements made under section 1853(b) after the date of the implementation of the determination.''.

(4) PERMITTING GEOGRAPHIC ADJUSTMENT TO CONSOLIDATE MULTIPLE MEDICARE+CHOICE PAYMENT AREAS IN A STATE INTO A SINGLE STATEWIDE MEDICARE+CHOICE PAYMENT AREA.—Section 1853(d)(3) (42 U.S.C. 1395w–23(e)(3)) is amended—

(A) by amending clause (i) of subparagraph (A) to read as follows:

''(i) to a single statewide Medicare+Choice payment area,''; and

(B) by amending subparagraph (B) to read as follows:

''(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Medicare Benefits Administrator shall initially (and annually thereafter) adjust the payment rates otherwise established under this section for Medicare+Choice payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for Medicare+Choice payment areas in the State in the absence of the adjustment under this paragraph.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and premiums for periods beginning on or after January 1, 2005.

TITLE III—RURAL HEALTH CARE IMPROVEMENTS

SEC. 301. REFERENCE TO FULL MARKET BASKET INCREASE FOR SOLE COMMUNITY HOSPITALS.

For provision eliminating any reduction from full market basket in the update for inpatient hospital services for sole community hospitals, see section 401.

SEC. 302. ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) TREATMENT FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

(a) BLENDING OF PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended by adding at the end the following new clause:

''(xiv)(I) In the case of discharges in a fiscal year beginning on or after October 1, 2002, subject to subclause (II), there shall be substituted for the disproportionate share adjustment percentage otherwise determined under clause (iv) (other than subclause (I)) or under clause (viii), (x), (xi), (xii), or (xiii), the old blend proportion (specified under subclause (III)) of the disproportionate share adjustment percentage otherwise determined under the respective clause and 100 percent minus such old blend proportion of the disproportionate share adjustment percentage determined under clause (vii) (relating to large, urban hospitals).

''(II) Under subclause (I), the disproportionate share adjustment percentage shall not exceed 10 percent for a hospital that is not classified as a rural referral center under subparagraph (C).

''(III) For purposes of subclause (I), the old blend proportion for fiscal year 2003 is 80 percent, for each subsequent year (through 2006) is the old blend proportion under this subclause for the previous year minus 20 percentage points, and for each year beginning with 2007 is 0 percent.''.

(2) CONFORMING AMENDMENTS.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in each of subclauses (II), (III), (IV), (V), and (VI) of clause (iv), by inserting ''subject to clause (xiv) and'' before ''for discharges occurring'';

(B) in clause (viii), by striking ''The formula'' and inserting ''Subject to clause (xiv), the formula''; and

(C) in each of clauses (x), (xi), (xii), and (xiii), by striking ''For purposes'' and inserting ''Subject to clause (xiv), for purposes''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to discharges occurring on or after October 1, 2002.

SEC. 303. 2-YEAR PHASED-IN INCREASE IN THE STANDARDIZED AMOUNT IN RURAL AND SMALL URBAN AREAS TO ACHIEVE A SINGLE, UNIFORM STANDARDIZED AMOUNT.

Section 1886(d)(3)(A)(iv) (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(1) by striking ''(iv) For discharges'' and inserting ''(iv)(I) Subject to the succeeding provisions of this clause, for discharges''; and

(2) by adding at the end the following new subclauses:

''(II) For discharges occurring during fiscal year 2003, the average standardized amount for hospitals located other than in a large urban area shall be increased by ½ of the difference between the average standardized amount determined under subclause (I) for hospitals located in large urban areas for such fiscal year and such amount determined (without regard to this subclause) for other hospitals for such fiscal year.

''(III) For discharges occurring in a fiscal year beginning with fiscal year 2004, the Secretary shall compute an average standardized amount for hospitals located in any area within the United States and within each region equal to the average standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2005, for hospitals located in any area) increased by the applicable percentage increase under subsection (b)(3)(B)(i).''.

SEC. 304. MORE FREQUENT UPDATE IN WEIGHTS USED IN HOSPITAL MARKET BASKET.

(a) MORE FREQUENT UPDATES IN WEIGHTS.—After revising the weights used in the hospital market basket under section 1886(b)(3)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(iii)) to reflect the most current data available, the Secretary shall establish a frequency for revising such weights in such market basket to reflect the most current data available more frequently than once every 5 years.

(b) REPORT.—Not later than October 1, 2003, the Secretary shall submit a report to Congress on the frequency established under subsection (a), including an explanation of the reasons for, and options considered, in determining such frequency.

SEC. 305. IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

(a) REINSTATEMENT OF PERIODIC INTERIM PAYMENT (PIP).—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (C);

(2) by adding ''and'' at the end of subparagraph (D); and

(3) by inserting after subparagraph (D) the following new subparagraph:

''(E) inpatient critical access hospital services;''.

(b) CONDITION FOR APPLICATION OF SPECIAL PHYSICIAN PAYMENT ADJUSTMENT.—Section 1834(g)(2) (42 U.S.C. 1395m(g)(2)) is amended by adding after and below subparagraph (B) the following:

''The Secretary may not require, as a condition for applying subparagraph (B) with respect to a critical access hospital, that each physician providing professional services in the hospital must assign billing rights with respect to such services, except that such subparagraph shall not apply to those physicians who have not assigned such billing rights.''.

(c) FLEXIBILITY IN BED LIMITATION FOR HOSPITALS WITH STRONG SEASONAL CENSUS FLUCTUATIONS.—Section 1820 (42 U.S.C. 1395i–4) is amended—

(1) in subsection (c)(2)(B)(iii), by inserting ''subject to paragraph (3)'' after ''(iii) provides'';

(2) by adding at the end of subsection (c) the following new paragraph:

''(3) INCREASE IN MAXIMUM NUMBER OF BEDS FOR HOSPITALS WITH STRONG SEASONAL CENSUS FLUCTUATIONS.—

''(A) IN GENERAL.—In the case of a hospital that demonstrates that it meets the standards established under subparagraph (B), the bed limitations otherwise applicable under paragraph (2)(B)(iii) and subsection (f) shall be increased by 5 beds.

''(B) STANDARDS.—The Secretary shall specify standards for determining whether a critical access hospital has sufficiently strong seasonal variations in patient admissions to justify the increase in bed limitation provided under subparagraph (A).''; and

(3) in subsection (f), by adding at the end the following new sentence: ''The limitations in numbers of beds under the first sentence are subject to adjustment under subsection (c)(3).''.

(d) 5-YEAR EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS FOR GRANT PROGRAM.—Section 1820(j) (42 U.S.C. 1395i–4(j)) is amended by striking ''through 2002'' and inserting ''through 2007''.

(e) EFFECTIVE DATES.—

(1) REINSTATEMENT OF PIP.—The amendments made by subsection (a) shall apply to payments made on or after January 1, 2003.

(2) PHYSICIAN PAYMENT ADJUSTMENT CONDITION.—The amendment made by subsection (b) shall be effective as if included in the enactment of section 403(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–371).

(3) FLEXIBILITY IN BED LIMITATION.—The amendments made by subsection (c) shall apply to designations made on or after January 1, 2003, but shall not apply to critical access hospitals that were designated as of such date.

SEC. 306. EXTENSION OF TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 508(a) BIPA (114 Stat. 2763A–533) is amended—

(1) by striking ''24-MONTH INCREASE BEGINNING APRIL 1, 2001'' and inserting ''IN GENERAL''; and

(2) by striking ''April 1, 2003'' and inserting ''January 1, 2005''.

(b) CONFORMING AMENDMENT.—Section 547(c)(2) of BIPA (114 Stat. 2763A–553) is amended by striking ''the period beginning on April 1, 2001, and ending on September 30, 2002,'' and inserting ''a period under such section''.

SEC. 307. REFERENCE TO 10 PERCENT INCREASE IN PAYMENT FOR HOSPICE CARE FURNISHED IN A FRONTIER AREA AND RURAL HOSPICE DEMONSTRATION PROJECT.

For—

(1) provision of 10 percent increase in payment for hospice care furnished in a frontier area, see section 422; and

(2) provision of a rural hospice demonstration project, see section 423.

SEC. 308. REFERENCE TO PRIORITY FOR HOSPITALS LOCATED IN RURAL OR SMALL URBAN AREAS IN REDISTRIBUTION OF UNUSED GRADUATE MEDICAL EDUCATION RESIDENCIES.

For provision providing priority for hospitals located in rural or small urban areas in redistribution of unused graduate medical education residencies, see section 612.

SEC. 309. GAO STUDY OF GEOGRAPHIC DIFFERENCES IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of differences in payment amounts under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for physicians' services in different geographic areas. Such study shall include—

(1) an assessment of the validity of the geographic adjustment factors used for each component of the fee schedule;

(2) an evaluation of the measures used for such adjustment, including the frequency of revisions; and

(3) an evaluation of the methods used to determine professional liability insurance costs used in computing the malpractice component, including a review of increases in professional liability insurance premiums and variation in such increases by State and physician specialty and methods used to update the geographic cost of practice index and relative weights for the malpractice component.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a). The report shall include recommendations regarding the use of more current data in computing geographic cost of practice indices as well as the use of data directly representative of physicians' costs (rather than proxy measures of such costs).

SEC. 310. PROVIDING SAFE HARBOR FOR CERTAIN COLLABORATIVE EFFORTS THAT BENEFIT MEDICALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(G) any remuneration between a public or nonprofit private health center entity described under clause (i) or (ii) of section 1905(1)(2)(B) and any individual or entity providing goods, items, services, donations or loans, or a combination thereof, to such health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center entity.''.

(b) RULEMAKING FOR EXCEPTION FOR HEALTH CENTER ENTITY ARRANGEMENTS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall establish, on an expedited basis, standards relating to the exception described in section 1128B(b)(3)(G) of the Social Security Act, as added by subsection (a), for health center entity arrangements to the antikickback penalties.

(B) FACTORS TO CONSIDER.—The Secretary shall consider the following factors, among others, in establishing standards relating to the exception for health center entity arrangements under subparagraph (A):

(i) Whether the arrangement between the health center entity and the other party results in savings of Federal grant funds or increased revenues to the health center entity.

(ii) Whether the arrangement between the health center entity and the other party expands or enhances a patient's freedom of choice.

(iii) Whether the arrangement between the health center entity and the other party protects a health care professional's independent medical judgment regarding medically appropriate treatment.

The Secretary may also include other standards and criteria that are consistent with the intent of Congress in enacting the exception established under this section.

(2) INTERIM FINAL EFFECT.—No later than 180 days after the date of enactment of this Act, the Secretary shall publish a rule in the Federal Register consistent with the factors under paragraph (1)(B). Such rule shall be effective and final immediately on an interim basis, subject to such change and revision, after public notice and opportunity (for a period of not more than 60 days) for public comment, as is consistent with this subsection.

TITLE IV—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

SEC. 401. REVISION OF ACUTE CARE HOSPITAL PAYMENT UPDATES.

Subclause (XVIII) of section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended to read as follows:

''(XVIII) for fiscal year 2003, the market basket percentage increase for sole community hospitals and such increase minus 0.25 percentage points for other hospitals, and''.

SEC. 402. 2-YEAR INCREASE IN LEVEL OF ADJUSTMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION (IME).

Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI) by striking ''and'' at the end;

(2) by redesignating subclause (VII) as subclause (IX);

(3) in subclause (VIII) as so redesignated, by striking ''2002'' and inserting ''2004''; and

(4) by inserting after subclause (VI) the following new subclause:

''(VII) during fiscal year 2003, 'c' is equal to 1.47;

''(VIII) during fiscal year 2004, 'c' is equal to 1.45; and''.

SEC. 403. RECOGNITION OF NEW MEDICAL TECHNOLOGIES UNDER INPATIENT HOSPITAL PPS.

(a) IMPROVING TIMELINESS OF DATA COLLECTION.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is amended by adding at the end the following new clause:

''(vii) Under the mechanism under this subparagraph, the Secretary shall provide for the addition of new diagnosis and procedure codes in April 1 of each year, but the addition of such codes shall not require the Secretary to adjust the payment (or diagnosis-related group classification) under this subsection until the fiscal year that begins after such date.''.

(b) ELIGIBILITY STANDARD.—

(1) MINIMUM PERIOD FOR RECOGNITION OF NEW TECHNOLOGIES.—Section 1886(d)(5)(K)(vi) (42 U.S.C. 1395ww(d)(5)(K)(vi)) is amended—

(A) by inserting ''(I)'' after ''(vi)''; and

(B) by adding at the end the following new subclause:

''(II) Under such criteria, a service or technology shall not be denied treatment as a new service or technology on the basis of the period of time in which the service or technology has been in use if such period ends before the end of the 2-to-3-year period that begins on the effective date of implementation of a code under ICD–9–CM (or a successor coding methodology) that enables the identification of a significant sample of specific discharges in which the service or technology has been used.''.

(2) ADJUSTMENT OF THRESHOLD.—Section 1886(d)(5)(K)(ii)(I) (42 U.S.C. 1395ww(d)(5)(K)(ii)(I)) is amended by inserting ''(applying a threshold specified by the Secretary that is the lesser of 50 percent of the national average standardized amount for operating costs of inpatient hospital services for all hospitals and all diagnosis-related groups or one standard deviation for the diagnosis-related group involved)'' after ''is inadequate''.

(3) CRITERION FOR SUBSTANTIAL IMPROVEMENT.—Section 1886(d)(5)(K)(vi) (42 U.S.C. 1395ww(d)(5)(K)(vi)), as amended by paragraph (1), is further amended by adding at the end the following subclause:

''(III) The Secretary shall by regulation provide for further clarification of the criteria applied to determine whether a new service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries. Under such criteria, in determining whether a new service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries, the Secretary shall deem a service or technology as meeting such requirement if the service or technology is a drug or biological that is designated under section 506 or 526 of the Federal Food, Drug, and Cosmetic Act, approved under section 314.510 or 601.41 of title 21, Code of Federal Regulations, or designated for priority review when the marketing application for such drug or biological was filed or is a medical device for which an exemption has been granted under section 520(m) of such Act, for which priority review has been provided under section 515(d)(5) of such Act, or is a substantially equivalent device for which an expedited review is provided under section 513(f) of such Act.''.

(4) PROCESS FOR PUBLIC INPUT.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)), as amended by paragraph (1), is amended—

(A) in clause (i), by adding at the end the following: ''Such mechanism shall be modified to meet the requirements of clause (viii).''; and

(B) by adding at the end the following new clause:

''(viii) The mechanism established pursuant to clause (i) shall be adjusted to provide, before publication of a proposed rule, for public input regarding whether a new service or technology not described in the second sentence of clause (vi)(III) represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries as follows:

''(I) The Secretary shall make public and periodically update a list of all the services and technologies for which an application for additional payment under this subparagraph is pending.

''(II) The Secretary shall accept comments, recommendations, and data from the public regarding whether the service or technology represents a substantial improvement.

''(III) The Secretary shall provide for a meeting at which organizations representing hospitals, physicians, medicare beneficiaries, manufacturers, and any other interested party may present comments, recommendations, and data to the clinical staff of the Centers for Medicare & Medicaid Services before publication of a notice of proposed rulemaking regarding whether service or technology represents a substantial improvement.''.

(c) PREFERENCE FOR USE OF DRG ADJUSTMENT.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is further amended by adding at the end the following new clause:

''(ix) Before establishing any add-on payment under this subparagraph with respect to a new technology, the Secretary shall seek to identify one or more diagnosis-related groups associated with such technology, based on similar clinical or anatomical characteristics and the cost of the technology. Within such groups the Secretary shall assign an eligible new technology into a diagnosis-related group where the average costs of care most closely approximate the costs of care of using the new technology. In such case, no add-on payment under this subparagraph shall be made with respect to such new technology and this clause shall not affect the application of paragraph (4)(C)(iii).''.

(d) IMPROVEMENT IN PAYMENT FOR NEW TECHNOLOGY.—Section 1886(d)(5)(K)(ii)(III) (42 U.S.C. 1395ww(d)(5)(K)(ii)(III)) is amended by inserting after ''the estimated average cost of such service or technology'' the following: ''(based on the marginal rate applied to costs under subparagraph (A))''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The Secretary shall implement the amendments made by this section so that they apply to classification for fiscal years beginning with fiscal year 2004.

(2) RECONSIDERATIONS OF APPLICATIONS FOR FISCAL YEAR 2003 THAT ARE DENIED.—In the case of an application for a classification of a medical service or technology as a new medical service or technology under section 1886(d)(5)(K) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(K)) that was filed for fiscal year 2003 and that is denied—

(A) the Secretary shall automatically reconsider the application as an application for fiscal year 2004 under the amendments made by this section; and

(B) the maximum time period otherwise permitted for such classification of the service or technology shall be extended by 12 months.

SEC. 404. PHASE-IN OF FEDERAL RATE FOR HOSPITALS IN PUERTO RICO.

Section 1886(d)(9) (42 U.S.C. 1395ww(d)(9)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ''for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)'' and inserting ''the applicable Puerto Rico percentage (specified in subparagraph (E))''; and

(B) in clause (ii), by striking ''for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 25 percent)'' and inserting ''the applicable Federal percentage (specified in subparagraph (E))''; and

(2) by adding at the end the following new subparagraph:

''(E) For purposes of subparagraph (A), for discharges occurring—

''(i) between October 1, 1987, and September 30, 1997, the applicable Puerto Rico percentage is 75 percent and the applicable Federal percentage is 25 percent;

''(ii) on or after October 1, 1997, and before October 1, 2003, the applicable Puerto Rico percentage is 50 percent and the applicable Federal percentage is 50 percent;

''(iii) during fiscal year 2004, the applicable Puerto Rico percentage is 45 percent and the applicable Federal percentage is 55 percent;

''(iv) during fiscal year 2005, the applicable Puerto Rico percentage is 40 percent and the applicable Federal percentage is 60 percent;

''(v) during fiscal year 2006, the applicable Puerto Rico percentage is 35 percent and the applicable Federal percentage is 65 percent;

''(vi) during fiscal year 2007, the applicable Puerto Rico percentage is 30 percent and the applicable Federal percentage is 70 percent; and

''(vii) on or after October 1, 2007, the applicable Puerto Rico percentage is 25 percent and the applicable Federal percentage is 75 percent.''.

SEC. 405. REFERENCE TO PROVISION RELATING TO ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

For provision enhancing disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds, see section 302.

SEC. 406. REFERENCE TO PROVISION RELATING TO 2-YEAR PHASED-IN INCREASE IN THE STANDARDIZED AMOUNT IN RURAL AND SMALL URBAN AREAS TO ACHIEVE A SINGLE, UNIFORM STANDARDIZED AMOUNT.

For provision phasing in over a 2-year period an increase in the standardized amount for rural and small urban areas to achieve a single, uniform, standardized amount, see section 303.

SEC. 407. REFERENCE TO PROVISION FOR MORE FREQUENT UPDATES IN THE WEIGHTS USED IN HOSPITAL MARKET BASKET.

For provision providing for more frequent updates in the weights used in hospital market basket, see section 304.

SEC. 408. REFERENCE TO PROVISION MAKING IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

For provision providing making improvements to critical access hospital program, see section 305.

Subtitle B—Skilled Nursing Facility Services

SEC. 411. PAYMENT FOR COVERED SKILLED NURSING FACILITY SERVICES.

(a) TEMPORARY INCREASE IN NURSING COMPONENT OF PPS FEDERAL RATE.—Section 312(a) of BIPA is amended by adding at the end the following new sentence: ''The Secretary of Health and Human Services shall increase by 8 percent the nursing component of the case-mix adjusted Federal prospective payment rate specified in Tables 3 and 4 of the final rule published in the Federal Register by the Health Care Financing Administration on July 31, 2000 (65 Fed. Reg. 46770) and as subsequently updated under section 1888(e)(4)(E)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(4)(E)(ii)), effective for services furnished on or after October 1, 2002, and before October 1, 2005.''.

(b) ADJUSTMENT TO RUGS FOR AIDS RESIDENTS.—

(1) IN GENERAL.—Paragraph (12) of section 1888(e) (42 U.S.C. 1395yy(e)) is amended to read as follows:

''(12) ADJUSTMENT FOR RESIDENTS WITH AIDS.—

''(A) IN GENERAL.—Subject to subparagraph (B), in the case of a resident of a skilled nursing facility who is afflicted with acquired immune deficiency syndrome (AIDS), the per diem amount of payment otherwise applicable shall be increased by 128 percent to reflect increased costs associated with such residents.

''(B) SUNSET.—Subparagraph (A) shall not apply on and after such date as the Secretary certifies that there is an appropriate adjustment in the case mix under paragraph (4)(G)(i) to compensate for the increased costs associated with residents described in such subparagraph.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after October 1, 2003.

Subtitle C—Hospice

SEC. 421. COVERAGE OF HOSPICE CONSULTATION SERVICES.

(a) COVERAGE OF HOSPICE CONSULTATION SERVICES.—Section 1812(a) (42 U.S.C. 1395d(a)) is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(3) by inserting after paragraph (4) the following new paragraph:

''(5) for individuals who are terminally ill, have not made an election under subsection (d)(1), and have not have previously received services under this paragraph, services that are furnished by a physician who is the medical director or an employee of a hospice program and that consist of—

''(A) an evaluation of the individual's need for pain and symptom management;

''(B) counseling the individual with respect to end-of-life issues and care options; and

''(C) advising the individual regarding advanced care planning.''.

(b) PAYMENT.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

''(4) The amount paid to a hospice program with respect to the services under section 1812(a)(5) for which payment may be made under this part shall be equal to an amount equivalent to the amount established for an office or other outpatient visit for evaluation and management associated with presenting problems of moderate severity under the fee schedule established under section 1848(b), other than the portion of such amount attributable to the practice expense component.''.

(c) CONFORMING AMENDMENT.—Section 1861(dd)(2)(A)(i) (42 U.S.C. 1395x(dd)(2)(A)(i)) is amended by inserting before the comma at the end the following: ''and services described in section 1812(a)(5)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services provided by a hospice program on or after January 1, 2004.

SEC. 422. 10 PERCENT INCREASE IN PAYMENT FOR HOSPICE CARE FURNISHED IN A FRONTIER AREA.

(a) IN GENERAL.—Section 1814(i)(1) (42 U.S.C. 1395f(i)(1)) is amended by adding at the end the following new subparagraph:

''(D) With respect to hospice care furnished in a frontier area on or after January 1, 2003, and before January 1, 2008, the payment rates otherwise established for such care shall be increased by 10 percent. For purposes of this subparagraph, the term 'frontier area' means a county in which the population density is less than 7 persons per square mile.''.

(b) REPORT ON COSTS.—Not later than January 1, 2007, the Comptroller General of the United States shall submit to Congress a report on the costs of furnishing hospice care in frontier areas. Such report shall include recommendations regarding the appropriateness of extending, and modifying, the payment increase provided under the amendment made by subsection (a).

SEC. 423. RURAL HOSPICE DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary shall conduct a demonstration project for the delivery of hospice care to medicare beneficiaries in rural areas. Under the project medicare beneficiaries who are unable to receive hospice care in the home for lack of an appropriate caregiver are provided such care in a facility of 20 or fewer beds which offers, within its walls, the full range of services provided by hospice programs under section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)).

(b) SCOPE OF PROJECT.—The Secretary shall conduct the project under this section with respect to no more than 3 hospice programs over a period of not longer than 5 years each.

(c) COMPLIANCE WITH CONDITIONS.—Under the demonstration project—

(1) the hospice program shall comply with otherwise applicable requirements, except that it shall not be required to offer services outside of the home or to meet the requirements of section 1861(dd)(2)(A)(iii) of the Social Security Act; and

(2) payments for hospice care shall be made at the rates otherwise applicable to such care under title XVIII of such Act.

The Secretary may require the program to comply with such additional quality assurance standards for its provision of services in its facility as the Secretary deems appropriate.

(d) REPORT.—Upon completion of the project, the Secretary shall submit a report to Congress on the project and shall include in the report recommendations regarding extension of such project to hospice programs serving rural areas.

Subtitle D—Other Provisions

SEC. 431. DEMONSTRATION PROJECT FOR USE OF RECOVERY AUDIT CONTRACTORS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project under this section (in this section referred to as the ''project'') to demonstrate the use of recovery audit contractors under the Medicare Integrity Program in identifying and recouping overpayments under the medicare program for services for which payment is made under part A of title XVIII of the Social Security Act. Under the project—

(1) payment may be made to such a contractor on a contingent basis;

(2) a percentage of the amount recovered may be retained by the Secretary and shall be available to the program management account of the Centers for Medicare & Medicaid Services; and

(3) the Secretary shall examine the efficacy of such use with respect to duplicative payments, accuracy of coding, and other payment policies in which overpayments arise.

(b) SCOPE AND DURATION.—The project shall cover at least 2 States and at least 3 contractors and shall last for not longer than 3 years.

(c) WAIVER.—The Secretary of Health and Human Services shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (a).

(d) QUALIFICATIONS OF CONTRACTORS.—

(1) IN GENERAL.—The Secretary shall enter into a recovery audit contract under this section with an entity only if the entity has staff that has knowledge of and experience with the payment rules and regulations under the medicare program or the entity has or will contract with another entity that has such knowledgeable and experienced staff.

(2) INELIGIBILITY OF CERTAIN CONTRACTORS.—The Secretary may not enter into a recovery audit contract under this section with an entity to the extent that the entity is a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h), a carrier under section 1842 of such Act (42 U.S.C. 1395u), or a Medicare Administrative Contractor under section 1874A of such Act, or any other entity that carries out the type of activities with respect to providers of services under part A that would constitute a conflict of interest, as determined by the Secretary.

(3) PREFERENCE FOR ENTITIES WITH DEMONSTRATED PROFICIENCY WITH PRIVATE INSURERS.—In awarding contracts to recovery audit contractors under this section, the Secretary shall give preference to those entities that the Secretary determines have demonstrated proficiency in recovery audits with private insurers or under the medicaid program under title XIX of such Act.

(e) REPORT.—The Secretary of Health and Human Services shall submit to Congress a report on the project not later than 6 months after the date of its completion. Such reports shall include information on the impact of the project on savings to the medicare program and recommendations on the cost-effectiveness of extending or expanding the project.

TITLE V—PROVISIONS RELATING TO PART B

Subtitle A—Physicians' Services

SEC. 501. REVISION OF UPDATES FOR PHYSICIANS' SERVICES.

(a) UPDATE FOR 2003 THROUGH 2005.—

(1) IN GENERAL.—Section 1848(d) (42 U.S.C. 1395w–4(d)) is amended by adding at the end the following new paragraphs:

''(5) UPDATE FOR 2003.—The update to the single conversion factor established in paragraph (1)(C) for 2003 is 2 percent.

''(6) SPECIAL RULES FOR UPDATE FOR 2004 AND 2005.—The following rules apply in determining the update adjustment factors under paragraph (4)(B) for 2004 and 2005:

''(A) USE OF 2002 DATA IN DETERMINING ALLOWABLE COSTS.—

''(i) The reference in clause (ii)(I) of such paragraph to April 1, 1996, is deemed to be a reference to January 1, 2002.

''(ii) The allowed expenditures for 2002 is deemed to be equal to the actual expenditures for physicians' services furnished during 2002, as estimated by the Secretary.

''(B) 1 PERCENTAGE POINT INCREASE IN GDP UNDER SGR.—The annual average percentage growth in real gross domestic product per capita under subsection (f)(2)(C) for each of 2003, 2004, and 2005 is deemed to be increased by 1 percentage point.''.

(2) CONFORMING AMENDMENT.—Paragraph (4)(B) of such section is amended, in the matter before clause (i), by inserting ''and paragraph (6)'' after ''subparagraph (D)''.

(b) USE OF 10-YEAR ROLLING AVERAGE IN COMPUTING GROSS DOMESTIC PRODUCT.—

(1) IN GENERAL.—Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended—

(A) by striking ''projected'' and inserting ''annual average''; and

(B) by striking ''from the previous applicable period to the applicable period involved'' and inserting ''during the 10-year period ending with the applicable period involved''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to computations of the sustainable growth rate for years beginning with 2002.

(c) ELIMINATION OF TRANSITIONAL ADJUSTMENT.—Section 1848(d)(4)(F) (42 U.S.C. 1395w–4(d)(4)(F)) is amended by striking ''subparagraph (A)'' and all that follows and inserting ''subparagraph (A), for each of 2001 and 2002, of −0.2 percent.''

SEC. 502. STUDIES ON ACCESS TO PHYSICIANS' SERVICES.

(a) GAO STUDY ON BENEFICIARY ACCESS TO PHYSICIANS' SERVICES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on access of medicare beneficiaries to physicians' services under the medicare program. The study shall include—

(A) an assessment of the use by beneficiaries of such services through an analysis of claims submitted by physicians for such services under part B of the medicare program;

(B) an examination of changes in the use by beneficiaries of physicians' services over time;

(C) an examination of the extent to which physicians are not accepting new medicare beneficiaries as patients.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include a determination whether—

(A) data from claims submitted by physicians under part B of the medicare program indicate potential access problems for medicare beneficiaries in certain geographic areas; and

(B) access by medicare beneficiaries to physicians' services may have improved, remained constant, or deteriorated over time.

(b) STUDY AND REPORT ON SUPPLY OF PHYSICIANS.—

(1) STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct a study on the adequacy of the supply of physicians (including specialists) in the United States and the factors that affect such supply.

(2) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the study described in paragraph (1), including any recommendations for legislation.

SEC. 503. MEDPAC REPORT ON PAYMENT FOR PHYSICIANS' SERVICES.

Not later than 1 year after the date of the enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report on the effect of refinements to the practice expense component of payments for physicians' services in the case of services for which there are no physician work relative value units, after the transition to a full resource-based payment system in 2002, under section 1848 of the Social Security Act (42 U.S.C. 1395w–4). Such report shall examine the following matters by physician specialty:

(1) The effect of such refinements on payment for physicians' services.

(2) The interaction of the practice expense component with other components of and adjustments to payment for physicians' services under such section.

(3) The appropriateness of the amount of compensation by reason of such refinements.

(4) The effect of such refinements on access to care by medicare beneficiaries to physicians' services.

(5) The effect of such refinements on physician participation under the medicare program.

Subtitle B—Other Services

SEC. 511. COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES.

(a) IN GENERAL.—Section 1847 (42 U.S.C. 1395w–3) is amended to read as follows:

''COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES

''SEC. 1847. (a) ESTABLISHMENT OF COMPETITIVE ACQUISITION PROGRAMS.—

''(1) IMPLEMENTATION OF PROGRAMS.—

''(A) IN GENERAL.—The Secretary shall establish and implement programs under which competitive acquisition areas are established throughout the United States for contract award purposes for the furnishing under this part of competitively priced items and services (described in paragraph (2)) for which payment is made under this part. Such areas may differ for different items and services.

''(B) PHASED-IN IMPLEMENTATION.—The programs shall be phased-in among competitive acquisition areas over a period of not longer than 3 years in a manner so that the competition under the programs occurs in—

''(i) at least ⅓ of such areas in 2004; and

''(ii) at least ⅔ of such areas in 2005.

''(C) WAIVER OF CERTAIN PROVISIONS.—In carrying out the programs, the Secretary may waive such provisions of the Federal Acquisition Regulation as are necessary for the efficient implementation of this section, other than provisions relating to confidentiality of information and such other provisions as the Secretary determines appropriate.

''(2) ITEMS AND SERVICES DESCRIBED.—The items and services referred to in paragraph (1) are the following:

''(A) DURABLE MEDICAL EQUIPMENT AND INHALATION DRUGS USED IN CONNECTION WITH DURABLE MEDICAL EQUIPMENT.—Covered items (as defined in section 1834(a)(13)) for which payment is otherwise made under section 1834(a), other than items used in infusion, and inhalation drugs used in conjunction with durable medical equipment.

''(B) OFF-THE-SHELF ORTHOTICS.—Orthotics (described in section 1861(s)(9)) for which payment is otherwise made under section 1834(h) which require minimal self-adjustment for appropriate use and does not require expertise in trimming, bending, molding, assembling, or customizing to fit to the patient.

''(3) EXEMPTION AUTHORITY.—In carrying out the programs under this section, the Secretary may exempt—

''(A) areas that are not competitive due to low population density; and

''(B) items and services for which the application of competitive acquisition is not likely to result in significant savings.

''(b) PROGRAM REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall conduct a competition among entities supplying items and services described in subsection (a)(2) for each competitive acquisition area in which the program is implemented under subsection (a) with respect to such items and services.

''(2) CONDITIONS FOR AWARDING CONTRACT.—

''(A) IN GENERAL.—The Secretary may not award a contract to any entity under the competition conducted in an competitive acquisition area pursuant to paragraph (1) to furnish such items or services unless the Secretary finds all of the following:

''(i) The entity meets quality and financial standards specified by the Secretary or developed by accreditation entities or organizations recognized by the Secretary.

''(ii) The total amounts to be paid under the contract (including costs associated with the administration of the contract) are expected to be less than the total amounts that would otherwise be paid.

''(iii) Beneficiary access to a choice of multiple suppliers in the area is maintained.

''(iv) Beneficiary liability is limited to the applicable percentage of contract award price.

''(B) QUALITY STANDARDS.—The quality standards specified under subparagraph (A)(i) shall not be less than the quality standards that would otherwise apply if this section did not apply and shall include consumer services standards. The Secretary shall consult with an expert outside advisory panel composed of an appropriate selection of representatives of physicians, practitioners, and suppliers to review (and advise the Secretary concerning) such quality standards.

''(3) CONTENTS OF CONTRACT.—

''(A) IN GENERAL.—A contract entered into with an entity under the competition conducted pursuant to paragraph (1) is subject to terms and conditions that the Secretary may specify.

''(B) TERM OF CONTRACTS.—The Secretary shall rebid contracts under this section not less often than once every 3 years.

''(4) LIMIT ON NUMBER OF CONTRACTORS.—

''(A) IN GENERAL.—The Secretary may limit the number of contractors in a competitive acquisition area to the number needed to meet projected demand for items and services covered under the contracts. In awarding contracts, the Secretary shall take into account the ability bidding entities to furnish items or services in sufficient quantities to meet the anticipated needs of beneficiaries for such items or services in the geographic area covered under the contract on a timely basis.

''(B) MULTIPLE WINNERS.—The Secretary shall award contracts to more than one entity submitting a bid in each area for an item or service.

''(5) PARTICIPATING CONTRACTORS.—Payment shall not be made for items and services described in subsection (a)(2) furnished by a contractor and for which competition is conducted under this section unless—

''(A) the contractor has submitted a bid for such items and services under this section; and

''(B) the Secretary has awarded a contract to the contractor for such items and services under this section.

''(6) AUTHORITY TO CONTRACT FOR EDUCATION, OUTREACH AND COMPLAINT SERVICES.—

The Secretary may enter into a contract with an appropriate entity to address complaints from beneficiaries who receive items and services from an entity with a contract under this section and to conduct appropriate education of and outreach to such beneficiaries with respect to the program.

''(c) ANNUAL REPORTS.—The Secretary shall submit to Congress an annual management report on the programs under this section. Each such report shall include information on savings, reductions in cost-sharing, access to items and services, and beneficiary satisfaction.

''(d) DEMONSTRATION PROJECT FOR CLINICAL LABORATORY SERVICES.—

''(1) IN GENERAL.—The Secretary shall conduct a demonstration project on the application of competitive acquisition under this section to clinical diagnostic laboratory tests—

''(A) for which payment is otherwise made under section 1833(h) or 1834(d)(1) (relating to colorectal cancer screening tests); and

''(B) which are furnished without a face-to-face encounter between the individual and the hospital or physician ordering the tests.

''(2) TERMS AND CONDITIONS.—Such project shall be under the same conditions as are applicable to items and services described in subsection (a)(2).

''(3) REPORT.—The Secretary shall submit to Congress—

''(A) an initial report on the project not later than December 31, 2004; and

''(B) such progress and final reports on the project after such date as the Secretary determines appropriate.''.

(b) CONTINUATION OF CERTAIN DEMONSTRATION PROJECTS.—Notwithstanding the amendment made by subsection (a), with respect to demonstration projects implemented by the Secretary under section 1847 of the Social Security Act (42 U.S.C. 1395w–3) (relating to the establishment of competitive acquisition areas) that was in effect on the day before the date of the enactment of this Act, each such demonstration project may continue under the same terms and conditions applicable under that section as in effect on that date.

(c) REPORT ON DIFFERENCES IN PAYMENT FOR LABORATORY SERVICES.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that analyzes differences in reimbursement between public and private payors for clinical diagnostic laboratory services.

SEC. 512. PAYMENT FOR AMBULANCE SERVICES.

(a) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—Section 1834(l) (42 U.S.C. 1395m(l)) is amended—

(1) in paragraph (2)(E), by inserting ''consistent with paragraph (10)'' after ''in an efficient and fair manner'';

(2) by redesignating the paragraph (8) added by section 221(a) of BIPA as paragraph (9); and

(3) by adding at the end the following new paragraph:

''(10) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—In carrying out the phase-in under paragraph (2)(E) for each level of service furnished in a year before January 1, 2007, the portion of the payment amount that is based on the fee schedule shall not be less than the following blended rate of the fee schedule under paragraph (1) and of a regional fee schedule for the region involved:

''(A) For 2003, the blended rate shall be based 20 percent on the fee schedule under paragraph (1) and 80 percent on the regional fee schedule.

''(B) For 2004, the blended rate shall be based 40 percent on the fee schedule under paragraph (1) and 60 percent on the regional fee schedule.

''(C) For 2005, the blended rate shall be based 60 percent on the fee schedule under paragraph (1) and 40 percent on the regional fee schedule.

''(D) For 2006, the blended rate shall be based 80 percent on the fee schedule under paragraph (1) and 20 percent on the regional fee schedule.

For purposes of this paragraph, the Secretary shall establish a regional fee schedule for each of the 9 Census divisions using the methodology (used in establishing the fee schedule under paragraph (1)) to calculate a regional conversion factor and a regional mileage payment rate and using the same payment adjustments and the same relative value units as used in the fee schedule under such paragraph.''.

(b) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—Section 1834(l), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

''(11) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—In the case of ground ambulance services furnished on or after January 1, 2003, and before January 1, 2008, regardless of where the transportation originates, the fee schedule established under this subsection shall provide that, with respect to the payment rate for mileage for a trip above 50 miles the per mile rate otherwise established shall be increased by ¼ of the payment per mile otherwise applicable to such miles.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to ambulance services furnished on or after January 1, 2003.

SEC. 513. 1-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS; PROVISIONS RELATING TO REPORTS.

(a) 1-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS.—Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is amended by striking ''and 2002'' and inserting ''2002 and 2003''.

(b) PROMPT SUBMISSION OF OVERDUE REPORTS ON PAYMENT AND UTILIZATION OF OUTPATIENT THERAPY SERVICES.—Not later than December 31, 2002, the Secretary shall submit to Congress the reports required under section 4541(d)(2) of the Balanced Budget Act of 1997 (relating to alternatives to a single annual dollar cap on outpatient therapy) and under section 221(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (relating to utilization patterns for outpatient therapy).

(c) IDENTIFICATION OF CONDITIONS AND DISEASES JUSTIFYING WAIVER OF THERAPY CAP.—

(1) STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to identify conditions or diseases that should justify conducting an assessment of the need to waive the therapy caps under section 1833(g)(4) of the Social Security Act (42 U.S.C. 1395l(g)(4)).

(2) REPORTS TO CONGRESS.—Not later than July 1, 2003, the Secretary shall submit to Congress a preliminary report on the conditions and diseases identified under paragraph (1) and not later than September 1, 2003, a final report on the conditions and diseases so identified.

(d) GAO STUDY OF PATIENT ACCESS TO PHYSICAL THERAPIST SERVICES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on access to physical therapist services in States authorizing such services without a physician referral and in States that require such a physician referral. The study shall—

(A) examine the use of and referral patterns for physical therapist services for patients age 50 and older in States that authorize such services without a physician referral and in States that require such a physician referral;

(B) examine the use of and referral patterns for physical therapist services for patients who are medicare beneficiaries; and

(C) examine the delivery of physical therapists' services within the facilities of Department of Defense; and

(D) analyze the potential impact on medicare beneficiaries and on expenditures under the medicare program of eliminating the need for a physician referral for physical therapist services under the medicare program.

(2) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than 1 year after the date of the enactment of this Act.

SEC. 514. ACCELERATED IMPLEMENTATION OF 20 PERCENT COINSURANCE FOR HOSPITAL OUTPATIENT DEPARTMENT (OPD) SERVICES; OTHER OPD PROVISIONS.

(a) ACCELERATED IMPLEMENTATION OF COINSURANCE REDUCTIONS.—Section 1833(t)(8)(C)(ii) (42 U.S.C. 1395l(t)(8)(C)(ii)) is amended by striking subclauses (III) through (V) and inserting the following:

''(III) For procedures performed in 2004, 45 percent.

''(IV) For procedures performed in 2005, 40 percent.

''(V) For procedures performed in 2006, 2007, 2008 and 2009, 35 percent.

''(VI) For procedures performed in 2010, 30 percent.

''(VII) For procedures performed in 2011, 25 percent.

''(VIII) For procedures performed in 2012 and thereafter, 20 percent.''.

(b) TREATMENT OF TEMPERATURE MONITORED CRYOABLATION.—

(1) IN GENERAL.—Section 1833(t)(6)(A)(ii) (42 U.S.C. 1395l(t)(6)(A)(ii)) is amended by striking ''or temperature monitored cryoablation''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to payment for services furnished on or after January 1, 2003.

SEC. 515. COVERAGE OF AN INITIAL PREVENTIVE PHYSICAL EXAMINATION.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), is amended—

(1) in subparagraph (U), by striking ''and'' at the end;

(2) in subparagraph (V), by inserting ''and'' at the end; and

(3) by adding at the end the following new subparagraph:

''(W) an initial preventive physical examination (as defined in subsection (ww));''.

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Initial Preventive Physical Examination

''(ww) The term 'initial preventive physical examination' means physicians' services consisting of a physical examination with the goal of health promotion and disease detection and includes items and services specified by the Secretary in regulations.''.

(c) PAYMENT AS PHYSICIANS' SERVICES.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) by inserting ''(2)(W),'' after ''(2)(S),''.

(d) OTHER CONFORMING AMENDMENTS.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''and'' at the end of subparagraph (H);

(B) by striking the semicolon at the end of subparagraph (I) and inserting '', and''; and

(C) by adding at the end the following new subparagraph:

''(J) in the case of an initial preventive physical examination, which is performed not later than 6 months after the date the individual's first coverage period begins under part B;''; and

(2) in paragraph (7), by striking ''or (H)'' and inserting ''(H), or (J)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2004, but only for individuals whose coverage period begins on or after such date.

SEC. 516. RENAL DIALYSIS SERVICES.

(a) REPORT ON DIFFERENCES IN COSTS IN DIFFERENT SETTINGS.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report containing—

(1) an analysis of the differences in costs of providing renal dialysis services under the medicare program in home settings and in facility settings;

(2) an assessment of the percentage of overhead costs in home settings and in facility settings; and

(3) an evaluation of whether the charges for home dialysis supplies and equipment are reasonable and necessary.

(b) RESTORING COMPOSITE RATE EXCEPTIONS FOR PEDIATRIC FACILITIES.—

(1) IN GENERAL.—Section 422(a)(2) of BIPA is amended—

(A) in subparagraph (A), by striking ''and (C)'' and inserting '', (C), and (D)'';

(B) in subparagraph (B), by striking ''In the case'' and inserting ''Subject to subparagraph (D), in the case''; and

(C) by adding at the end the following new subparagraph:

''(D) INAPPLICABILITY TO PEDIATRIC FACILITIES.—Subparagraphs (A) and (B) shall not apply, as of October 1, 2002, to pediatric facilities that do not have an exception rate described in subparagraph (C) in effect on such date. For purposes of this subparagraph, the term 'pediatric facility' means a renal facility at least 50 percent of whose patients are individuals under 18 years of age.''.

(2) CONFORMING AMENDMENT.—The fourth sentence of section 1881(b)(7) (42 U.S.C. 1395rr(b)(7)) is amended by striking ''The Secretary'' and inserting ''Subject to section 422(a)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, the Secretary''.

(c) INCREASE IN RENAL DIALYSIS COMPOSITE RATE FOR SERVICES FURNISHED IN 2004.—Notwithstanding any other provision of law, with respect to payment under part B of title XVIII of the Social Security Act for renal dialysis services furnished in 2004, the composite payment rate otherwise established under section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) shall be increased by 1.2 percent.

TITLE VI—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

SEC. 601. ELIMINATION OF 15 PERCENT REDUCTION IN PAYMENT RATES UNDER THE PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1895(b)(3)(A) (42 U.S.C. 1395fff(b)(3)(A)) is amended to read as follows:

''(A) INITIAL BASIS.—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts) as follows:

''(i) Such amount (or amounts) shall initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2001 shall be equal to the total amount that would have been made if the system had not been in effect and if section 1861(v)(1)(L)(ix) had not been enacted.

''(ii) For fiscal year 2002 and for the first quarter of fiscal year 2003, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for the previous fiscal year, updated under subparagraph (B).

''(iii) For 2003, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for fiscal year 2002, updated under subparagraph (B) for 2003.

''(iv) For 2004 and each subsequent year, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for the previous year, updated under subparagraph (B).

Each such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and area wage adjustments among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 501 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554).

SEC. 602. ESTABLISHMENT OF REDUCED COPAYMENT FOR A HOME HEALTH SERVICE EPISODE OF CARE FOR CERTAIN BENEFICIARIES.

(a) PART A.—

(1) IN GENERAL.—Section 1813(a) (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

''(5)(A)(i) Subject to clause (ii), the amount payable for home health services furnished to the individual under this title for each episode of care beginning in a year (beginning with 2003) shall be reduced by a copayment equal to the copayment amount specified in subparagraph (B)(ii) such year.

''(ii) The copayment under clause (i) shall not apply—

''(I) in the case of an individual who has been determined to be a qualified medicare beneficiary (as defined in section 1905(p)(1)) or otherwise to be entitled to medical assistance under section 1902(a)(10)(A) or 1902(a)(10)(C); and

''(II) in the case of an episode of care which consists of 4 or fewer visits.

''(B)(i) The Secretary shall estimate, before the beginning of each year (beginning with 2003), the national average payment under this title per episode for home health services projected for the year involved.

''(ii) For each year the copayment amount under this clause is equal to 1.5 percent of the national average payment estimated for the year involved under clause (i). Any amount determined under the preceding sentence which is not a multiple of $5 shall be rounded to the nearest multiple of $5.

''(iii) There shall be no administrative or judicial review under section 1869, 1878, or otherwise of the estimation of average payment under clause (i).''.

(2) TIMELY IMPLEMENTATION.—Unless the Secretary of Health and Human Services otherwise provides on a timely basis, the copayment amount specified under section 1813(a)(5)(B)(ii) of the Social Security Act (as added by paragraph (1)) for 2003 shall be deemed to be $40.

(b) CONFORMING PROVISIONS.—

(1) Section 1833(a)(2)(A) (42 U.S.C. 1395l(a)(2)(A)) is amended by inserting ''less the copayment amount applicable under section 1813(a)(5)'' after ''1895''.

(2) Section 1866(a)(2)(A)(i) (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(A) by striking ''or coinsurance'' and inserting '', coinsurance, or copayment''; and

(B) by striking ''or (a)(4)'' and inserting ''(a)(4), or (a)(5)''.

SEC. 603. UPDATE IN HOME HEALTH SERVICES.

(a) CHANGE TO CALENDAR YEAR UPDATE.—

(1) IN GENERAL.—Section 1895(b) (42 U.S.C. 1395fff(b)(3)) is amended—

(A) in paragraph (3)(B)(i)—

(i) by striking ''each fiscal year (beginning with fiscal year 2002)'' and inserting ''fiscal year 2002 and for each subsequent year (beginning with 2003)''; and

(ii) by inserting ''or year'' after ''the fiscal year'';

(B) in paragraph (3)(B)(ii)—

(i) in subclause (II), by striking ''fiscal year'' and inserting ''year'' and by redesignating such subclause as subclause (III); and

(ii) in subclause (I), by striking ''each of fiscal years 2002 and 2003'' and inserting the following: ''fiscal year 2002, the home health market basket percentage increase (as defined in clause (iii)) minus 1.1 percentage points;

''(II) 2003'';

(C) in paragraph (3)(B)(iii), by inserting ''or year'' after ''fiscal year'' each place it appears;

(D) in paragraph (3)(B)(iv)—

(i) by inserting ''or year'' after ''fiscal year'' each place it appears; and

(ii) by inserting ''or years'' after ''fiscal years''; and

(E) in paragraph (5), by inserting ''or year'' after ''fiscal year''.

(2) TRANSITION RULE.—The standard prospective payment amount (or amounts) under section 1895(b)(3) of the Social Security Act for the calendar quarter beginning on October 1, 2002, shall be such amount (or amounts) for the previous calendar quarter.

(b) CHANGES IN UPDATES FOR 2003, 2004, AND 2005.—Section 1895(b)(3)(B)(ii) (42 U.S.C. 1395fff(b)(3)(B)(ii)), as amended by subsection (a)(1)(B), is amended—

(1) in subclause (II), by striking ''the home health market basket percentage increase (as defined in clause (iii)) minus 1.1 percentage points'' and inserting ''2.0 percentage points'';

(2) by striking ''or'' at the end of subclause (II);

(3) by redesignating subclause (III) as subclause (V); and

(4) by inserting after subclause (II) the following new subclause:

''(III) 2004, 1.0 percentage points;

''(IV) 2005, the home health market basket percentage increase (as defined in clause (iii)) minus 0.8 percentage points; or''.

(c) PAYMENT ADJUSTMENT.—

(1) IN GENERAL.—Section 1895(b)(5) (42 U.S.C. 1395fff(b)(5)) is amended ''5 percent'' and inserting ''3 percent''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to years beginning with 2003.

SEC. 604. OASIS TASK FORCE; SUSPENSION OF CERTAIN OASIS DATA COLLECTION REQUIREMENTS PENDING TASK FORCE SUBMITTAL OF REPORT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish and appoint a task force (to be known as the ''OASIS Task Force'') to examine the data collection and reporting requirements under OASIS. For purposes of this section, the term ''OASIS'' means the Outcome and Assessment Information Set required by reason of section 4602(e) of Balanced Budget Act of 1997 (42 U.S.C. 1395fff note).

(b) COMPOSITION.—The OASIS Task Force shall be composed of the following:

(1) Staff of the Centers for Medicare & Medicaid Services with expertise in post-acute care.

(2) Representatives of home health agencies.

(3) Health care professionals and research and health care quality experts outside the Federal Government with expertise in post-acute care.

(4) Advocates for individuals requiring home health services.

(c) DUTIES.—

(1) REVIEW AND RECOMMENDATIONS.—The OASIS Task Force shall review and make recommendations to the Secretary regarding changes in OASIS to improve and simplify data collection for purposes of—

(A) assessing the quality of home health services; and

(B) providing consistency in classification of patients into home health resource groups (HHRGs) for payment under section 1895 of the Social Security Act (42 U.S.C. 1395fff).

(2) SPECIFIC ITEMS.—In conducting the review under paragraph (1), the OASIS Task Force shall specifically examine—

(A) the 41 outcome measures currently in use;

(B) the timing and frequency of data collection; and

(C) the collection of information on comorbidities and clinical indicators.

(3) REPORT.—The OASIS Task Force shall submit a report to the Secretary containing its findings and recommendations for changes in OASIS by not later than 18 months after the date of the enactment of this Act.

(d) SUNSET.—The OASIS Task Force shall terminate 60 days after the date on which the report is submitted under subsection (c)(2).

(e) NONAPPLICATION OF FACA.—The provisions of the Federal Advisory Committee Act shall not apply to the OASIS Task Force.

(f) SUSPENSION OF OASIS REQUIREMENT FOR COLLECTION OF DATA ON NON-MEDICARE AND NON-MEDICAID PATIENTS PENDING TASK FORCE REPORT.—

(1) IN GENERAL.—During the period described in paragraph (2), the Secretary of Health and Human Services may not require, under section 4602(e) of the Balanced Budget Act of 1997 or otherwise under OASIS, a home health agency to gather or submit information that relates to an individual who is not eligible for benefits under either title XVIII or title XIX of the Social Security Act.

(2) PERIOD OF SUSPENSION.—The period described in this paragraph—

(A) begins on January 1, 2003, and

(B) ends on the last day of the 2nd month beginning after the date the report is submitted under subsection (c)(2).

SEC. 605. MEDPAC STUDY ON MEDICARE MARGINS OF HOME HEALTH AGENCIES.

(a) STUDY.—The Medicare Payment Advisory Commission shall conduct a study of payment margins of home health agencies under the home health prospective payment system under section 1895 of the Social Security Act (42 U.S.C. 1395fff). Such study shall examine whether systematic differences in payment margins are related to differences in case mix (as measured by home health resource groups (HHRGs)) among such agencies. The study shall use the partial or full-year cost reports filed by home health agencies.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study under subsection (a).

Subtitle B—Direct Graduate Medical Education

SEC. 611. EXTENSION OF UPDATE LIMITATION ON HIGH COST PROGRAMS.

Section 1886(h)(2)(D)(iv) (42 U.S.C. 1395ww(h)(2)(D)(iv)) is amended—

(1) in subclause (I)—

(A) by striking ''AND 2002'' and inserting ''THROUGH 2012'';

(B) by striking ''during fiscal year 2001 or fiscal year 2002'' and inserting ''during the period beginning with fiscal year 2001 and ending with fiscal year 2012''; and

(C) by striking ''subject to subclause (III),'';

(2) by striking subclause (II); and

(3) in subclause (III)—

(A) by redesignating such subclause as subclause (II); and

(B) by striking ''or (II)''.

SEC. 612. REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.

(a) IN GENERAL.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended—

(1) in subparagraph (F), by inserting ''subject to subparagraph (I),'' after ''October 1, 1997,'';

(2) in subparagraph (H), by inserting ''subject to subparagraph (I),'' after ''subparagraphs (F) and (G),''; and

(3) by adding at the end the following new subparagraph:

''(I) REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.—

''(i) REDUCTION IN LIMIT BASED ON UNUSED POSITIONS.—

''(I) IN GENERAL.—If a hospital's resident level (as defined in clause (iii)(I)) is less than the otherwise applicable resident limit (as defined in clause (iii)(II)) for each of the reference periods (as defined in subclause (II)), effective for cost reporting periods beginning on or after January 1, 2003, the otherwise applicable resident limit shall be reduced by 75 percent of the difference between such limit and the reference resident level specified in subclause (III) (or subclause (IV) if applicable).

''(II) REFERENCE PERIODS DEFINED.—In this clause, the term 'reference periods' means, for a hospital, the 3 most recent consecutive cost reporting periods of the hospital for which cost reports have been settled (or, if not, submitted) on or before September 30, 2001.

''(III) REFERENCE RESIDENT LEVEL.—Subject to subclause (IV), the reference resident level specified in this subclause for a hospital is the highest resident level for the hospital during any of the reference periods.

''(IV) ADJUSTMENT PROCESS.—Upon the timely request of a hospital, the Secretary may adjust the reference resident level for a hospital to be the resident level for the hospital for the cost reporting period that includes July 1, 2002.

''(ii) REDISTRIBUTION.—

''(I) IN GENERAL.—The Secretary is authorized to increase the otherwise applicable resident limits for hospitals by an aggregate number estimated by the Secretary that does not exceed the aggregate reduction in such limits attributable to clause (i) (without taking into account any adjustment under subclause (IV) of such clause).

''(II) EFFECTIVE DATE.—No increase under subclause (I) shall be permitted or taken into account for a hospital for any portion of a cost reporting period that occurs before July 1, 2003, or before the date of the hospital's application for an increase under this clause. No such increase shall be permitted for a hospital unless the hospital has applied to the Secretary for such increase by December 31, 2004.

''(III) CONSIDERATIONS IN REDISTRIBUTION.—In determining for which hospitals the increase in the otherwise applicable resident limit is provided under subclause (I), the Secretary shall take into account the need for such an increase by specialty and location involved, consistent with subclause (IV).

''(IV) PRIORITY FOR RURAL AND SMALL URBAN AREAS.—In determining for which hospitals and residency training programs an increase in the otherwise applicable resident limit is provided under subclause (I), the Secretary shall first distribute the increase to programs of hospitals located in rural areas or in urban areas that are not large urban areas (as defined for purposes of subsection (d)) on a first-come-first-served basis (as determined by the Secretary) based on a demonstration that the hospital will fill the positions made available under this clause and not to exceed an increase of 25 full-time equivalent positions with respect to any hospital.

''(V) APPLICATION OF LOCALITY ADJUSTED NATIONAL AVERAGE PER RESIDENT AMOUNT.—With respect to additional residency positions in a hospital attributable to the increase provided under this clause, notwithstanding any other provision of this subsection, the approved FTE resident amount is deemed to be equal to the locality adjusted national average per resident amount computed under subparagraph (E) for that hospital.

''(VI) CONSTRUCTION.—Nothing in this clause shall be construed as permitting the redistribution of reductions in residency positions attributable to voluntary reduction programs under paragraph (6) or as affecting the ability of a hospital to establish new medical residency training programs under subparagraph (H).

''(iii) RESIDENT LEVEL AND LIMIT DEFINED.—In this subparagraph:

''(I) RESIDENT LEVEL.—The term 'resident level' means, with respect to a hospital, the total number of full-time equivalent residents, before the application of weighting factors (as determined under this paragraph), in the fields of allopathic and osteopathic medicine for the hospital.

''(II) OTHERWISE APPLICABLE RESIDENT LIMIT.—The term 'otherwise applicable resident limit' means, with respect to a hospital, the limit otherwise applicable under subparagraphs (F)(i) and (H) on the resident level for the hospital determined without regard to this subparagraph.''.

(b) NO APPLICATION OF INCREASE TO IME.—Section 1886(d)(5)(B)(v) (42 U.S.C. 1395ww(d)(5)(B)(v)) is amended by adding at the end the following: ''The provisions of clause (i) of subparagraph (I) of subsection (h)(4) shall apply with respect to the first sentence of this clause in the same manner as it applies with respect to subparagraph (F) of such subsection, but the provisions of clause (ii) of such subparagraph shall not apply.''.

(c) REPORT ON EXTENSION OF APPLICATIONS UNDER REDISTRIBUTION PROGRAM.—Not later than July 1, 2004, the Secretary shall submit to Congress a report containing recommendations regarding whether to extend the deadline for applications for an increase in resident limits under section 1886(h)(4)(I)(ii)(II) of the Social Security Act (as added by subsection (a)).

Subtitle C—Other Provisions

SEC. 621. MODIFICATIONS TO MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXAMINATION OF BUDGET CONSEQUENCES.—Section 1805(b) (42 U.S.C. 1395b–6(b)) is amended by adding at the end the following new paragraph:

''(8) EXAMINATION OF BUDGET CONSEQUENCES.—Before making any recommendations, the Commission shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities.''.

(b) CONSIDERATION OF EFFICIENT PROVISION OF SERVICES.—Section 1805(b)(2)(B)(i) (42 U.S.C. 1395b–6(b)(2)(B)(i)) is amended by inserting ''the efficient provision of'' after ''expenditures for''.

(c) ADDITIONAL REPORTS.—

(1) DATA NEEDS AND SOURCES.—The Medicare Payment Advisory Commission shall conduct a study, and submit a report to Congress by not later than June 1, 2003, on the need for current data, and sources of current

data available, to determine the solvency and financial circumstances of hospitals and other medicare providers of services.

(2) USE OF TAX-RELATED RETURNS.—Using return information provided under Form 990 of the Internal Revenue Service, the Commission shall submit to Congress, by not later than June 1, 2003, a report on the following:

(A) Investments and capital financing of hospitals participating under the medicare program and related foundations.

(B) Access to capital financing for private and for not-for-profit hospitals.

SEC. 622. DEMONSTRATION PROJECT FOR DISEASE MANAGEMENT FOR CERTAIN MEDICARE BENEFICIARIES WITH DIABETES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project under this section (in this section referred to as the ''project'') to demonstrate the impact on costs and health outcomes of applying disease management to certain medicare beneficiaries with diagnosed diabetes. In no case may the number of participants in the project exceed 30,000 at any time.

(b) VOLUNTARY PARTICIPATION.—

(1) ELIGIBILITY.—Medicare beneficiaries are eligible to participate in the project only if—

(a) they are Hispanic, as determined by the Secretary;

(A) they meet specific medical criteria demonstrating the appropriate diagnosis and the advanced nature of their disease;

(B) their physicians approve of participation in the project; and

(C) they are not enrolled in a Medicare+Choice plan.

(2) BENEFITS.—A medicare beneficiary who is enrolled in the project shall be eligible—

(A) for disease management services related to their diabetes; and

(B) for payment for all costs for prescription drugs without regard to whether or not they relate to the diabetes, except that the project may provide for modest cost-sharing with respect to prescription drug coverage.

(c) CONTRACTS WITH DISEASE MANAGEMENT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall carry out the project through contracts with up to three disease management organizations. The Secretary shall not enter into such a contract with an organization unless the organization demonstrates that it can produce improved health outcomes and reduce aggregate medicare expenditures consistent with paragraph (2).

(2) CONTRACT PROVISIONS.—Under such contracts—

(A) such an organization shall be required to provide for prescription drug coverage described in subsection (b)(2)(B);

(B) such an organization shall be paid a fee negotiated and established by the Secretary in a manner so that (taking into account savings in expenditures under parts A and B of the medicare program under title XVIII of the Social Security Act) there will be no net increase, and to the extent practicable, there will be a net reduction in expenditures under the medicare program as a result of the project; and

(C) such an organization shall guarantee, through an appropriate arrangement with a reinsurance company or otherwise, the prohibition on net increases in expenditures described in subparagraph (B).

(3) PAYMENTS.—Payments to such organizations shall be made in appropriate proportion from the Trust Funds established under title XVIII of the Social Security Act.

(4) WORKING GROUP.—The Secretary shall establish within the Department of Health and Human Services a working group consisting of employees of the Department to carry out the following:

(A) To oversee the project.

(B) To establish policy and criteria for medicare disease management programs within the Department, including the establishment of policy and criteria for such programs.

(C) To identify targeted medical conditions and targeted individuals.

(D) To select areas in which such programs are carried out.

(E) To monitor health outcomes under such programs.

(F) To measure the effectiveness of such programs in meeting any budget neutrality requirements.

(G) Otherwise to serve as a central focal point within the Department for dissemination of information on medicare disease management programs.

(d) APPLICATION OF MEDIGAP PROTECTIONS TO DEMONSTRATION PROJECT ENROLLEES.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to enrollment (and termination of enrollment) in the demonstration project under this section, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

(2) In applying paragraph (1)—

(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) of such Act to 12 months is deemed a reference to the period of the demonstration project; and

(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Health and Human Services.

(e) DURATION.—The project shall last for not longer than 3 years.

(f) WAIVER.—The Secretary of Health and Human Services shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (c)(3).

(g) REPORT.—The Secretary of Health and Human Services shall submit to Congress an interim report on the project not later than 2 years after the date it is first implemented and a final report on the project not later than 6 months after the date of its completion. Such reports shall include information on the impact of the project on costs and health outcomes and recommendations on the cost-effectiveness of extending or expanding the project.

(h) GAO STUDY ON DISEASE MANAGEMENT PROGRAMS.—The Comptroller General of the United States shall conduct a study that compares disease management programs under title XVIII of the Social Security Act with such programs conducted in the private sector, including the prevalence of such programs and programs for case management. The study shall identify the cost-effectiveness of such programs and any savings achieved by such programs. The Comptroller General shall submit a report on such study to Congress by not later than 18 months after the date of the enactment of this Act.

SEC. 623. DEMONSTRATION PROJECT FOR MEDICAL ADULT DAY CARE SERVICES.

(a) ESTABLISHMENT.—Subject to the succeeding provisions of this section, the Secretary of Health and Human Services shall establish a demonstration project (in this section referred to as the ''demonstration project'') under which the Secretary shall, as part of a plan of an episode of care for home health services established for a medicare beneficiary, permit a home health agency, directly or under arrangements with a medical adult day care facility, to provide medical adult day care services as a substitute for a portion of home health services that would otherwise be provided in the beneficiary's home.

(b) PAYMENT.—

(1) IN GENERAL.—The amount of payment for an episode of care for home health services, a portion of which consists of substitute medical adult day care services, under the demonstration project shall be made at a rate equal to 95 percent of the amount that would otherwise apply for such home health services under section 1895 of the Social Security Act (42 u.s.c. 1395fff). In no case may a home health agency, or a medical adult day care facility under arrangements with a home health agency, separately charge a beneficiary for medical adult day care services furnished under the plan of care.

(2) BUDGET NEUTRALITY FOR DEMONSTRATION PROJECT.—Notwithstanding any other provision of law, the Secretary shall provide for an appropriate reduction in the aggregate amount of additional payments made under section 1895 of the Social Security Act (42 U.S.C. 1395fff) to reflect any increase in amounts expended from the Trust Funds as a result of the demonstration project conducted under this section.

(c) DEMONSTRATION PROJECT SITES.—The project established under this section shall be conducted in not more than 5 sites in States selected by the Secretary that license or certify providers of services that furnish medical adult day care services.

(d) DURATION.—The Secretary shall conduct the demonstration project for a period of 3 years.

(e) VOLUNTARY PARTICIPATION.—Participation of medicare beneficiaries in the demonstration project shall be voluntary. The total number of such beneficiaries that may participate in the project at any given time may not exceed 15,000.

(f) PREFERENCE IN SELECTING AGENCIES.—In selecting home health agencies to participate under the demonstration project, the Secretary shall give preference to those agencies that—

(1) are currently licensed or certified to furnish medical adult day care services; and

(2) have furnished medical adult day care services to medicare beneficiaries for a continuous 2-year period before the beginning of the demonstration project.

(g) WAIVER AUTHORITY.—The Secretary may waive such requirements of title XVIII of the Social Security Act as may be necessary for the purposes of carrying out the demonstration project, other than waiving the requirement that an individual be homebound in order to be eligible for benefits for home health services.

(h) EVALUATION AND REPORT.—The Secretary shall conduct an evaluation of the clinical and cost effectiveness of the demonstration project. Not later 30 months after the commencement of the project, the Secretary shall submit to Congress a report on the evaluation, and shall include in the report the following:

(1) An analysis of the patient outcomes and costs of furnishing care to the medicare beneficiaries participating in the project as compared to such outcomes and costs to beneficiaries receiving only home health services for the same health conditions.

(2) Such recommendations regarding the extension, expansion, or termination of the project as the Secretary determines appropriate.

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH AGENCY.—The term ''home health agency'' has the meaning given such term in section 1861(o) of the Social Security Act (42 U.S.C. 1395x(o)).

(2) MEDICAL ADULT DAY CARE FACILITY.—The term ''medical adult day care facility'' means a facility that—

(A) has been licensed or certified by a State to furnish medical adult day care services in the State for a continuous 2-year period;

(B) is engaged in providing skilled nursing services and other therapeutic services directly or under arrangement with a home health agency;

(C) meets such standards established by the Secretary to assure quality of care and such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the facility; and

(D) provides medical adult day care services.

(3) MEDICAL ADULT DAY CARE SERVICES.—The term ''medical adult day care services'' means—

(A) home health service items and services described in paragraphs (1) through (7) of section 1861(m) furnished in a medical adult day care facility;

(B) a program of supervised activities furnished in a group setting in the facility that—

(i) meet such criteria as the Secretary determines appropriate; and

(ii) is designed to promote physical and mental health of the individuals; and

(C) such other services as the Secretary may specify.

(4) MEDICARE BENEFICIARY.—The term ''medicare beneficiary'' means an individual entitled to benefits under part A of this title, enrolled under part B of this title, or both.

TITLE VII—MEDICARE BENEFITS ADMINISTRATION

SEC. 701. ESTABLISHMENT OF MEDICARE BENEFITS ADMINISTRATION.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 105, is amended by inserting after 1806 the following new section:

''MEDICARE BENEFITS ADMINISTRATION

''SEC. 1808. (a) ESTABLISHMENT.—There is established within the Department of Health and Human Services an agency to be known as the Medicare Benefits Administration.

''(b) ADMINISTRATOR; DEPUTY ADMINISTRATOR; CHIEF ACTUARY.—

''(1) ADMINISTRATOR.—

''(A) IN GENERAL.—The Medicare Benefits Administration shall be headed by an administrator to be known as the 'Medicare Benefits Administrator' (in this section referred to as the 'Administrator') who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be in direct line of authority to the Secretary.

''(B) COMPENSATION.—The Administrator shall be paid at the rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(C) TERM OF OFFICE.—The Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of an Administrator's term of office, that Administrator may continue in office until the entry upon office of such a successor. An Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

''(D) GENERAL AUTHORITY.—The Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

''(E) RULEMAKING AUTHORITY.—The Administrator may prescribe such rules and regulations as the Administrator determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Administrator shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

''(F) AUTHORITY TO ESTABLISH ORGANIZATIONAL UNITS.—The Administrator may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Administrator considers necessary or appropriate, except as specified in this section.

''(G) AUTHORITY TO DELEGATE.—The Administrator may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Administration as the Administrator may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

''(2) DEPUTY ADMINISTRATOR.—

''(A) IN GENERAL.—There shall be a Deputy Administrator of the Medicare Benefits Administration who shall be appointed by the President, by and with the advice and consent of the Senate.

''(B) COMPENSATION.—The Deputy Administrator shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(C) TERM OF OFFICE.—The Deputy Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of a Deputy Administrator's term of office, such Deputy Administrator may continue in office until the entry upon office of such a successor. A Deputy Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

''(D) DUTIES.—The Deputy Administrator shall perform such duties and exercise such powers as the Administrator shall from time to time assign or delegate. The Deputy Administrator shall be Acting Administrator of the Administration during the absence or disability of the Administrator and, unless the President designates another officer of the Government as Acting Administrator, in the event of a vacancy in the office of the Administrator.

''(3) CHIEF ACTUARY.—

''(A) IN GENERAL.—There is established in the Administration the position of Chief Actuary. The Chief Actuary shall be appointed by, and in direct line of authority to, the Administrator of such Administration. The Chief Actuary shall be appointed from among individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences. The Chief Actuary may be removed only for cause.

''(B) COMPENSATION.—The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.

''(C) DUTIES.—The Chief Actuary shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence.

''(4) SECRETARIAL COORDINATION OF PROGRAM ADMINISTRATION.—The Secretary shall ensure appropriate coordination between the Administrator and the Administrator of the Centers for Medicare & Medicaid Services in carrying out the programs under this title.

''(c) DUTIES; ADMINISTRATIVE PROVISIONS.—

''(1) DUTIES.—

''(A) GENERAL DUTIES.—The Administrator shall carry out parts C and D, including—

''(i) negotiating, entering into, and enforcing, contracts with plans for the offering of Medicare+Choice plans under part C, including the offering of qualified prescription drug coverage under such plans; and

''(ii) negotiating, entering into, and enforcing, contracts with PDP sponsors for the offering of prescription drug plans under part D.

''(B) OTHER DUTIES.—The Administrator shall carry out any duty provided for under part C or part D, including demonstration projects carried out in part or in whole under such parts, the programs of all-inclusive care for the elderly (PACE program) under section 1894, the social health maintenance organization (SHMO) demonstration projects (referred to in section 4104(c) of the Balanced Budget Act of 1997), and through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of a interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved).

''(C) PRESCRIPTION DRUG CARD.—The Administrator shall carry out section 1807 (relating to the medicare prescription drug discount card endorsement program).

''(D) NONINTERFERENCE.—In carrying out its duties with respect to the provision of qualified prescription drug coverage to beneficiaries under this title, the Administrator may not—

''(i) require a particular formulary or institute a price structure for the reimbursement of covered outpatient drugs;

''(ii) interfere in any way with negotiations between PDP sponsors and Medicare+Choice organizations and drug manufacturers, wholesalers, or other suppliers of covered outpatient drugs; and

''(iii) otherwise interfere with the competitive nature of providing such coverage through such sponsors and organizations.

''(E) ANNUAL REPORTS.—Not later March 31 of each year, the Administrator shall submit to Congress and the President a report on the administration of parts C and D during the previous fiscal year.

''(2) STAFF.—

''(A) IN GENERAL.—The Administrator, with the approval of the Secretary, may employ, without regard to chapter 31 of title 5, United States Code, other than sections 3110 and 3112, such officers and employees as are necessary to administer the activities to be carried out through the Medicare Benefits Administration. The Administrator shall employ staff with appropriate and necessary expertise in negotiating contracts in the private sector.

''(B) FLEXIBILITY WITH RESPECT TO COMPENSATION.—

''(i) IN GENERAL.—The staff of the Medicare Benefits Administration shall, subject to clause (ii), be paid without regard to the provisions of chapter 51 (other than section 5101) and chapter 53 (other than section 5301) of such title (relating to classification and schedule pay rates).

''(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(C) LIMITATION ON FULL-TIME EQUIVALENT STAFFING FOR CURRENT CMS FUNCTIONS BEING TRANSFERRED.—The Administrator may not employ under this paragraph a number of full-time equivalent employees, to carry out functions that were previously conducted by the Centers for Medicare & Medicaid Services and that are conducted by the Administrator by reason of this section, that exceeds the number of such full-time equivalent employees authorized to be employed by the Centers for Medicare & Medicaid Services to

conduct such functions as of the date of the enactment of this Act.

''(3) REDELEGATION OF CERTAIN FUNCTIONS OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES.—

''(A) IN GENERAL.—The Secretary, the Administrator, and the Administrator of the Centers for Medicare & Medicaid Services shall establish an appropriate transition of responsibility in order to redelegate the administration of part C from the Secretary and the Administrator of the Centers for Medicare & Medicaid Services to the Administrator as is appropriate to carry out the purposes of this section.

''(B) TRANSFER OF DATA AND INFORMATION.—The Secretary shall ensure that the Administrator of the Centers for Medicare & Medicaid Services transfers to the Administrator of the Medicare Benefits Administration such information and data in the possession of the Administrator of the Centers for Medicare & Medicaid Services as the Administrator of the Medicare Benefits Administration requires to carry out the duties described in paragraph (1).

''(C) CONSTRUCTION.—Insofar as a responsibility of the Secretary or the Administrator of the Centers for Medicare & Medicaid Services is redelegated to the Administrator under this section, any reference to the Secretary or the Administrator of the Centers for Medicare & Medicaid Services in this title or title XI with respect to such responsibility is deemed to be a reference to the Administrator.

''(d) OFFICE OF BENEFICIARY ASSISTANCE.—

''(1) ESTABLISHMENT.—The Secretary shall establish within the Medicare Benefits Administration an Office of Beneficiary Assistance to coordinate functions relating to outreach and education of medicare beneficiaries under this title, including the functions described in paragraph (2). The Office shall be separate operating division within the Administration.

''(2) DISSEMINATION OF INFORMATION ON BENEFITS AND APPEALS RIGHTS.—

''(A) DISSEMINATION OF BENEFITS INFORMATION.—The Office of Beneficiary Assistance shall disseminate, directly or through contract, to medicare beneficiaries, by mail, by posting on the Internet site of the Medicare Benefits Administration and through a toll-free telephone number, information with respect to the following:

''(i) Benefits, and limitations on payment (including cost-sharing, stop-loss provisions, and formulary restrictions) under parts C and D.

''(ii) Benefits, and limitations on payment under parts A and B, including information on medicare supplemental policies under section 1882.

Such information shall be presented in a manner so that medicare beneficiaries may compare benefits under parts A, B, D, and medicare supplemental policies with benefits under Medicare+Choice plans under part C.

''(B) DISSEMINATION OF APPEALS RIGHTS INFORMATION.—The Office of Beneficiary Assistance shall disseminate to medicare beneficiaries in the manner provided under subparagraph (A) a description of procedural rights (including grievance and appeals procedures) of beneficiaries under the original medicare fee-for-service program under parts A and B, the Medicare+Choice program under part C, and the Voluntary Prescription Drug Benefit Program under part D.

''(e) MEDICARE POLICY ADVISORY BOARD.—

''(1) ESTABLISHMENT.—There is established within the Medicare Benefits Administration the Medicare Policy Advisory Board (in this section referred to the 'Board'). The Board shall advise, consult with, and make recommendations to the Administrator of the Medicare Benefits Administration with respect to the administration of parts C and D, including the review of payment policies under such parts.

''(2) REPORTS.—

''(A) IN GENERAL.—With respect to matters of the administration of parts C and D, the Board shall submit to Congress and to the Administrator of the Medicare Benefits Administration such reports as the Board determines appropriate. Each such report may contain such recommendations as the Board determines appropriate for legislative or administrative changes to improve the administration of such parts, including the topics described in subparagraph (B). Each such report shall be published in the Federal Register.

''(B) TOPICS DESCRIBED.—Reports required under subparagraph (A) may include the following topics:

''(i) FOSTERING COMPETITION.—Recommendations or proposals to increase competition under parts C and D for services furnished to medicare beneficiaries.

''(ii) EDUCATION AND ENROLLMENT.—Recommendations for the improvement to efforts to provide medicare beneficiaries information and education on the program under this title, and specifically parts C and D, and the program for enrollment under the title.

''(iii) IMPLEMENTATION OF RISK-ADJUSTMENT.—Evaluation of the implementation under section 1853(a)(3)(C) of the risk adjustment methodology to payment rates under that section to Medicare+Choice organizations offering Medicare+Choice plans that accounts for variations in per capita costs based on health status and other demographic factors.

''(iv) DISEASE MANAGEMENT PROGRAMS.—Recommendations on the incorporation of disease management programs under parts C and D.

''(v) RURAL ACCESS.—Recommendations to improve competition and access to plans under parts C and D in rural areas.

''(C) MAINTAINING INDEPENDENCE OF BOARD.—The Board shall directly submit to Congress reports required under subparagraph (A). No officer or agency of the United States may require the Board to submit to any officer or agency of the United States for approval, comments, or review, prior to the submission to Congress of such reports.

''(3) DUTY OF ADMINISTRATOR OF MEDICARE BENEFITS ADMINISTRATION.—With respect to any report submitted by the Board under paragraph (2)(A), not later than 90 days after the report is submitted, the Administrator of the Medicare Benefits Administration shall submit to Congress and the President an analysis of recommendations made by the Board in such report. Each such analysis shall be published in the Federal Register.

''(4) MEMBERSHIP.—

''(A) APPOINTMENT.—Subject to the succeeding provisions of this paragraph, the Board shall consist of seven members to be appointed as follows:

''(i) Three members shall be appointed by the President.

''(ii) Two members shall be appointed by the Speaker of the House of Representatives, with the advice of the chairmen and the ranking minority members of the Committees on Ways and Means and on Energy and Commerce of the House of Representatives.

''(iii) Two members shall be appointed by the President pro tempore of the Senate with the advice of the chairman and the ranking minority member of the Senate Committee on Finance.

''(B) QUALIFICATIONS.—The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education and experience in health care benefits management, exceptionally qualified to perform the duties of members of the Board.

''(C) PROHIBITION ON INCLUSION OF FEDERAL EMPLOYEES.—No officer or employee of the United States may serve as a member of the Board.

''(5) COMPENSATION.—Members of the Board shall receive, for each day (including travel time) they are engaged in the performance of the functions of the board, compensation at rates not to exceed the daily equivalent to the annual rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(6) TERMS OF OFFICE.—

''(A) IN GENERAL.—The term of office of members of the Board shall be 3 years.

''(B) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed—

''(i) one shall be appointed for a term of 1 year;

''(ii) three shall be appointed for terms of 2 years; and

''(iii) three shall be appointed for terms of 3 years.

''(C) REAPPOINTMENTS.—Any person appointed as a member of the Board may not serve for more than 8 years.

''(D) VACANCY.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

''(7) CHAIR.—The Chair of the Board shall be elected by the members. The term of office of the Chair shall be 3 years.

''(8) MEETINGS.—The Board shall meet at the call of the Chair, but in no event less than three times during each fiscal year.

''(9) DIRECTOR AND STAFF.—

''(A) APPOINTMENT OF DIRECTOR.—The Board shall have a Director who shall be appointed by the Chair.

''(B) IN GENERAL.—With the approval of the Board, the Director may appoint, without regard to chapter 31 of title 5, United States Code, such additional personnel as the Director considers appropriate.

''(C) FLEXIBILITY WITH RESPECT TO COMPENSATION.—

''(i) IN GENERAL.—The Director and staff of the Board shall, subject to clause (ii), be paid without regard to the provisions of chapter 51 and chapter 53 of such title (relating to classification and schedule pay rates).

''(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(D) ASSISTANCE FROM THE ADMINISTRATOR OF THE MEDICARE BENEFITS ADMINISTRATION.—The Administrator of the Medicare Benefits Administration shall make available to the Board such information and other assistance as it may require to carry out its functions.

''(10) CONTRACT AUTHORITY.—The Board may contract with and compensate government and private agencies or persons to carry out its duties under this subsection, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

''(f) FUNDING.—There is authorized to be appropriated, in appropriate part from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund (including the Medicare Prescription Drug Account), such sums as are necessary to carry out this section.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) TIMING OF INITIAL APPOINTMENTS.—The Administrator and Deputy Administrator of the Medicare Benefits Administration may not be appointed before March 1, 2003.

(3) DUTIES WITH RESPECT TO ELIGIBILITY DETERMINATIONS AND ENROLLMENT.—The Administrator of the Medicare Benefits Administration shall carry out enrollment under title XVIII of the Social Security Act, make eligibility determinations under such title, and carry out part C of such title for years beginning or after January 1, 2005.

(4) TRANSITION.—Before the date the Administrator of the Medicare Benefits Administration is appointed and assumes responsibilities under this section and section 1807 of the Social Security Act, the Secretary of Health and Human Services shall provide for the conduct of any responsibilities of such Administrator that are otherwise provided under law.

(c) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—

(1) ADMINISTRATOR AS MEMBER OF THE BOARD OF TRUSTEES OF THE MEDICARE TRUST FUNDS.—Section 1817(b) and section 1841(b) (42 U.S.C. 1395i(b), 1395t(b)) are each amended by striking ''and the Secretary of Health and Human Services, all ex officio,'' and inserting ''the Secretary of Health and Human Services, and the Administrator of the Medicare Benefits Administration, all ex officio,''.

(2) INCREASE IN GRADE TO EXECUTIVE LEVEL III FOR THE ADMINISTRATOR OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES; LEVEL FOR MEDICARE BENEFITS ADMINISTRATOR.—

(A) IN GENERAL.—Section 5314 of title 5, United States Code, by adding at the end the following:

''Administrator of the Centers for Medicare & Medicaid Services .

''Administrator of the Medicare Benefits Administration.''.

(B) CONFORMING AMENDMENT.—Section 5315 of such title is amended by striking ''Administrator of the Health Care Financing Administration.''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph take effect on January 1, 2003.

TITLE VIII—REGULATORY REDUCTION AND CONTRACTING REFORM

Subtitle A—Regulatory Reform

SEC. 801. CONSTRUCTION; DEFINITION OF SUPPLIER.

(a) CONSTRUCTION.—Nothing in this title shall be construed—

(1) to compromise or affect existing legal remedies for addressing fraud or abuse, whether it be criminal prosecution, civil enforcement, or administrative remedies, including under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act); or

(2) to prevent or impede the Department of Health and Human Services in any way from its ongoing efforts to eliminate waste, fraud, and abuse in the medicare program.

Furthermore, the consolidation of medicare administrative contracting set forth in this Act does not constitute consolidation of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund or reflect any position on that issue.

(b) DEFINITION OF SUPPLIER.—Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (c) the following new subsection:

''Supplier

''(d) The term 'supplier' means, unless the context otherwise requires, a physician or other practitioner, a facility, or other entity (other than a provider of services) that furnishes items or services under this title.''.

SEC. 802. ISSUANCE OF REGULATIONS.

(a) CONSOLIDATION OF PROMULGATION TO ONCE A MONTH.—

(1) IN GENERAL.—Section 1871 (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

''(d)(1) Subject to paragraph (2), the Secretary shall issue proposed or final (including interim final) regulations to carry out this title only on one business day of every month.

''(2) The Secretary may issue a proposed or final regulation described in paragraph (1) on any other day than the day described in paragraph (1) if the Secretary—

''(A) finds that issuance of such regulation on another day is necessary to comply with requirements under law; or

''(B) finds that with respect to that regulation the limitation of issuance on the date described in paragraph (1) is contrary to the public interest.

If the Secretary makes a finding under this paragraph, the Secretary shall include such finding, and brief statement of the reasons for such finding, in the issuance of such regulation.

''(3) The Secretary shall coordinate issuance of new regulations described in paragraph (1) relating to a category of provider of services or suppliers based on an analysis of the collective impact of regulatory changes on that category of providers or suppliers.''.

(2) GAO REPORT ON PUBLICATION OF REGULATIONS ON A QUARTERLY BASIS.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the feasibility of requiring that regulations described in section 1871(d) of the Social Security Act be promulgated on a quarterly basis rather than on a monthly basis.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to regulations promulgated on or after the date that is 30 days after the date of the enactment of this Act.

(b) REGULAR TIMELINE FOR PUBLICATION OF FINAL RULES.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)) is amended by adding at the end the following new paragraph:

''(3)(A) The Secretary, in consultation with the Director of the Office of Management and Budget, shall establish and publish a regular timeline for the publication of final regulations based on the previous publication of a proposed regulation or an interim final regulation.

''(B) Such timeline may vary among different regulations based on differences in the complexity of the regulation, the number and scope of comments received, and other relevant factors, but shall not be longer than 3 years except under exceptional circumstances. If the Secretary intends to vary such timeline with respect to the publication of a final regulation, the Secretary shall cause to have published in the Federal Register notice of the different timeline by not later than the timeline previously established with respect to such regulation. Such notice shall include a brief explanation of the justification for such variation.

''(C) In the case of interim final regulations, upon the expiration of the regular timeline established under this paragraph for the publication of a final regulation after opportunity for public comment, the interim final regulation shall not continue in effect unless the Secretary publishes (at the end of the regular timeline and, if applicable, at the end of each succeeding 1-year period) a notice of continuation of the regulation that includes an explanation of why the regular timeline (and any subsequent 1-year extension) was not complied with. If such a notice is published, the regular timeline (or such timeline as previously extended under this paragraph) for publication of the final regulation shall be treated as having been extended for 1 additional year.

''(D) The Secretary shall annually submit to Congress a report that describes the instances in which the Secretary failed to publish a final regulation within the applicable regular timeline under this paragraph and that provides an explanation for such failures.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act. The Secretary shall provide for an appropriate transition to take into account the backlog of previously published interim final regulations.

(c) LIMITATIONS ON NEW MATTER IN FINAL REGULATIONS.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

''(4) If the Secretary publishes notice of proposed rulemaking relating to a regulation (including an interim final regulation), insofar as such final regulation includes a provision that is not a logical outgrowth of such notice of proposed rulemaking, that provision shall be treated as a proposed regulation and shall not take effect until there is the further opportunity for public comment and a publication of the provision again as a final regulation.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to final regulations published on or after the date of the enactment of this Act.

SEC. 803. COMPLIANCE WITH CHANGES IN REGULATIONS AND POLICIES.

(a) NO RETROACTIVE APPLICATION OF SUBSTANTIVE CHANGES.—

(1) IN GENERAL.—Section 1871 (42 U.S.C. 1395hh), as amended by section 802(a), is amended by adding at the end the following new subsection:

''(e)(1)(A) A substantive change in regulations, manual instructions, interpretative rules, statements of policy, or guidelines of general applicability under this title shall not be applied (by extrapolation or otherwise) retroactively to items and services furnished before the effective date of the change, unless the Secretary determines that—

''(i) such retroactive application is necessary to comply with statutory requirements; or

''(ii) failure to apply the change retroactively would be contrary to the public interest.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to substantive changes issued on or after the date of the enactment of this Act.

(b) TIMELINE FOR COMPLIANCE WITH SUBSTANTIVE CHANGES AFTER NOTICE.—

(1) IN GENERAL.—Section 1871(e)(1), as added by subsection (a), is amended by adding at the end the following:

''(B)(i) Except as provided in clause (ii), a substantive change referred to in subparagraph (A) shall not become effective before the end of the 30-day period that begins on the date that the Secretary has issued or published, as the case may be, the substantive change.

''(ii) The Secretary may provide for such a substantive change to take effect on a date that precedes the end of the 30-day period under clause (i) if the Secretary finds that waiver of such 30-day period is necessary to

comply with statutory requirements or that the application of such 30-day period is contrary to the public interest. If the Secretary provides for an earlier effective date pursuant to this clause, the Secretary shall include in the issuance or publication of the substantive change a finding described in the first sentence, and a brief statement of the reasons for such finding.

''(C) No action shall be taken against a provider of services or supplier with respect to noncompliance with such a substantive change for items and services furnished before the effective date of such a change.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to compliance actions undertaken on or after the date of the enactment of this Act.

(c) RELIANCE ON GUIDANCE.—

(1) IN GENERAL.—Section 1871(e), as added by subsection (a), is further amended by adding at the end the following new paragraph:

''(2)(A) If—

''(i) a provider of services or supplier follows the written guidance (which may be transmitted electronically) provided by the Secretary or by a medicare contractor (as defined in section 1889(g)) acting within the scope of the contractor's contract authority, with respect to the furnishing of items or services and submission of a claim for benefits for such items or services with respect to such provider or supplier;

''(ii) the Secretary determines that the provider of services or supplier has accurately presented the circumstances relating to such items, services, and claim to the contractor in writing; and

''(iii) the guidance was in error;

the provider of services or supplier shall not be subject to any sanction (including any penalty or requirement for repayment of any amount) if the provider of services or supplier reasonably relied on such guidance.

''(B) Subparagraph (A) shall not be construed as preventing the recoupment or repayment (without any additional penalty) relating to an overpayment insofar as the overpayment was solely the result of a clerical or technical operational error.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act but shall not apply to any sanction for which notice was provided on or before the date of the enactment of this Act.

SEC. 804. REPORTS AND STUDIES RELATING TO REGULATORY REFORM.

(a) GAO STUDY ON ADVISORY OPINION AUTHORITY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine the feasibility and appropriateness of establishing in the Secretary authority to provide legally binding advisory opinions on appropriate interpretation and application of regulations to carry out the medicare program under title XVIII of the Social Security Act. Such study shall examine the appropriate timeframe for issuing such advisory opinions, as well as the need for additional staff and funding to provide such opinions.

(2) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than January 1, 2004.

(b) REPORT ON LEGAL AND REGULATORY INCONSISTENCIES.—Section 1871 (42 U.S.C. 1395hh), as amended by section 803(a), is amended by adding at the end the following new subsection:

''(f)(1) Not later than 2 years after the date of the enactment of this subsection, and every 2 years thereafter, the Secretary shall submit to Congress a report with respect to the administration of this title and areas of inconsistency or conflict among the various provisions under law and regulation.

''(2) In preparing a report under paragraph (1), the Secretary shall collect—

''(A) information from individuals entitled to benefits under part A or enrolled under part B, or both, providers of services, and suppliers and from the Medicare Beneficiary Ombudsman and the Medicare Provider Ombudsman with respect to such areas of inconsistency and conflict; and

''(B) information from medicare contractors that tracks the nature of written and telephone inquiries.

''(3) A report under paragraph (1) shall include a description of efforts by the Secretary to reduce such inconsistency or conflicts, and recommendations for legislation or administrative action that the Secretary determines appropriate to further reduce such inconsistency or conflicts.''.

Subtitle B—Contracting Reform

SEC. 811. INCREASED FLEXIBILITY IN MEDICARE ADMINISTRATION.

(a) CONSOLIDATION AND FLEXIBILITY IN MEDICARE ADMINISTRATION.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1874 the following new section:

''CONTRACTS WITH MEDICARE ADMINISTRATIVE CONTRACTORS

''SEC. 1874A. (a) AUTHORITY.—

''(1) AUTHORITY TO ENTER INTO CONTRACTS.—The Secretary may enter into contracts with any eligible entity to serve as a medicare administrative contractor with respect to the performance of any or all of the functions described in paragraph (4) or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other entities).

''(2) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract with respect to the performance of a particular function described in paragraph (4) only if—

''(A) the entity has demonstrated capability to carry out such function;

''(B) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement;

''(C) the entity has sufficient assets to financially support the performance of such function; and

''(D) the entity meets such other requirements as the Secretary may impose.

''(3) MEDICARE ADMINISTRATIVE CONTRACTOR DEFINED.—For purposes of this title and title XI—

''(A) IN GENERAL.—The term 'medicare administrative contractor' means an agency, organization, or other person with a contract under this section.

''(B) APPROPRIATE MEDICARE ADMINISTRATIVE CONTRACTOR.—With respect to the performance of a particular function in relation to an individual entitled to benefits under part A or enrolled under part B, or both, a specific provider of services or supplier (or class of such providers of services or suppliers), the 'appropriate' medicare administrative contractor is the medicare administrative contractor that has a contract under this section with respect to the performance of that function in relation to that individual, provider of services or supplier or class of provider of services or supplier.

''(4) FUNCTIONS DESCRIBED.—The functions referred to in paragraphs (1) and (2) are payment functions, provider services functions, and functions relating to services furnished to individuals entitled to benefits under part A or enrolled under part B, or both, as follows:

''(A) DETERMINATION OF PAYMENT AMOUNTS.—Determining (subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contracts) the amount of the payments required pursuant to this title to be made to providers of services, suppliers and individuals.

''(B) MAKING PAYMENTS.—Making payments described in subparagraph (A) (including receipt, disbursement, and accounting for funds in making such payments).

''(C) BENEFICIARY EDUCATION AND ASSISTANCE.—Providing education and outreach to individuals entitled to benefits under part A or enrolled under part B, or both, and providing assistance to those individuals with specific issues, concerns or problems.

''(D) PROVIDER CONSULTATIVE SERVICES.—Providing consultative services to institutions, agencies, and other persons to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to qualify as providers of services or suppliers.

''(E) COMMUNICATION WITH PROVIDERS.—Communicating to providers of services and suppliers any information or instructions furnished to the medicare administrative contractor by the Secretary, and facilitating communication between such providers and suppliers and the Secretary.

''(F) PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.—Performing the functions relating to provider education, training, and technical assistance.

''(G) ADDITIONAL FUNCTIONS.—Performing such other functions as are necessary to carry out the purposes of this title.

''(5) RELATIONSHIP TO MIP CONTRACTS.—

''(A) NONDUPLICATION OF DUTIES.—In entering into contracts under this section, the Secretary shall assure that functions of medicare administrative contractors in carrying out activities under parts A and B do not duplicate activities carried out under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).

''(B) CONSTRUCTION.—An entity shall not be treated as a medicare administrative contractor merely by reason of having entered into a contract with the Secretary under section 1893.

''(6) APPLICATION OF FEDERAL ACQUISITION REGULATION.—Except to the extent inconsistent with a specific requirement of this title, the Federal Acquisition Regulation applies to contracts under this title.

''(b) CONTRACTING REQUIREMENTS.—

''(1) USE OF COMPETITIVE PROCEDURES.—

''(A) IN GENERAL.—Except as provided in laws with general applicability to Federal acquisition and procurement or in subparagraph (B), the Secretary shall use competitive procedures when entering into contracts with medicare administrative contractors under this section, taking into account performance quality as well as price and other factors.

''(B) RENEWAL OF CONTRACTS.—The Secretary may renew a contract with a medicare administrative contractor under this section from term to term without regard to section 5 of title 41, United States Code, or any other provision of law requiring competition, if the medicare administrative contractor has met or exceeded the performance requirements applicable with respect to the contract and contractor, except that the Secretary shall provide for the application of competitive procedures under such a contract not less frequently than once every five years.

''(C) TRANSFER OF FUNCTIONS.—The Secretary may transfer functions among medicare administrative contractors consistent with the provisions of this paragraph. The Secretary shall ensure that performance quality is considered in such transfers. The

Secretary shall provide public notice (whether in the Federal Register or otherwise) of any such transfer (including a description of the functions so transferred, a description of the providers of services and suppliers affected by such transfer, and contact information for the contractors involved).

''(D) INCENTIVES FOR QUALITY.—The Secretary shall provide incentives for medicare administrative contractors to provide quality service and to promote efficiency.

''(2) COMPLIANCE WITH REQUIREMENTS.—No contract under this section shall be entered into with any medicare administrative contractor unless the Secretary finds that such medicare administrative contractor will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, quality of services provided, and other matters as the Secretary finds pertinent.

''(3) PERFORMANCE REQUIREMENTS.—

''(A) DEVELOPMENT OF SPECIFIC PERFORMANCE REQUIREMENTS.—In developing contract performance requirements, the Secretary shall develop performance requirements applicable to functions described in subsection (a)(4).

''(B) CONSULTATION.— In developing such requirements, the Secretary may consult with providers of services and suppliers, organizations representing individuals entitled to benefits under part A or enrolled under part B, or both, and organizations and agencies performing functions necessary to carry out the purposes of this section with respect to such performance requirements.

''(C) INCLUSION IN CONTRACTS.—All contractor performance requirements shall be set forth in the contract between the Secretary and the appropriate medicare administrative contractor. Such performance requirements—

''(i) shall reflect the performance requirements developed under subparagraph (A), but may include additional performance requirements;

''(ii) shall be used for evaluating contractor performance under the contract; and

''(iii) shall be consistent with the written statement of work provided under the contract.

''(4) INFORMATION REQUIREMENTS.—The Secretary shall not enter into a contract with a medicare administrative contractor under this section unless the contractor agrees—

''(A) to furnish to the Secretary such timely information and reports as the Secretary may find necessary in performing his functions under this title; and

''(B) to maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (A) and otherwise to carry out the purposes of this title.

''(5) SURETY BOND.—A contract with a medicare administrative contractor under this section may require the medicare administrative contractor, and any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

''(c) TERMS AND CONDITIONS.—

''(1) IN GENERAL.—A contract with any medicare administrative contractor under this section may contain such terms and conditions as the Secretary finds necessary or appropriate and may provide for advances of funds to the medicare administrative contractor for the making of payments by it under subsection (a)(4)(B).

''(2) PROHIBITION ON MANDATES FOR CERTAIN DATA COLLECTION.—The Secretary may not require, as a condition of entering into, or renewing, a contract under this section, that the medicare administrative contractor match data obtained other than in its activities under this title with data used in the administration of this title for purposes of identifying situations in which the provisions of section 1862(b) may apply.

''(d) LIMITATION ON LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS AND CERTAIN OFFICERS.—

''(1) CERTIFYING OFFICER.—No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by the individual under this section.

''(2) DISBURSING OFFICER.—No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by such officer under this section if it was based upon an authorization (which meets the applicable requirements for such internal controls established by the Comptroller General) of a certifying officer designated as provided in paragraph (1) of this subsection.

''(3) LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTOR.—No medicare administrative contractor shall be liable to the United States for a payment by a certifying or disbursing officer unless in connection with such payment or in the supervision of or selection of such officer the medicare administrative contractor acted with gross negligence.

''(4) INDEMNIFICATION BY SECRETARY.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (D), in the case of a medicare administrative contractor (or a person who is a director, officer, or employee of such a contractor or who is engaged by the contractor to participate directly in the claims administration process) who is made a party to any judicial or administrative proceeding arising from or relating directly to the claims administration process under this title, the Secretary may, to the extent the Secretary determines to be appropriate and as specified in the contract with the contractor, indemnify the contractor and such persons.

''(B) CONDITIONS.—The Secretary may not provide indemnification under subparagraph (A) insofar as the liability for such costs arises directly from conduct that is determined by the judicial proceeding or by the Secretary to be criminal in nature, fraudulent, or grossly negligent. If indemnification is provided by the Secretary with respect to a contractor before a determination that such costs arose directly from such conduct, the contractor shall reimburse the Secretary for costs of indemnification.

''(C) SCOPE OF INDEMNIFICATION.—Indemnification by the Secretary under subparagraph (A) may include payment of judgments, settlements (subject to subparagraph (D)), awards, and costs (including reasonable legal expenses).

''(D) WRITTEN APPROVAL FOR SETTLEMENTS.—A contractor or other person described in subparagraph (A) may not propose to negotiate a settlement or compromise of a proceeding described in such subparagraph without the prior written approval of the Secretary to negotiate such settlement or compromise. Any indemnification under subparagraph (A) with respect to amounts paid under a settlement or compromise of a proceeding described in such subparagraph are conditioned upon prior written approval by the Secretary of the final settlement or compromise.

''(E) CONSTRUCTION.—Nothing in this paragraph shall be construed—

''(i) to change any common law immunity that may be available to a medicare administrative contractor or person described in subparagraph (A); or

''(ii) to permit the payment of costs not otherwise allowable, reasonable, or allocable under the Federal Acquisition Regulations.''.

(2) CONSIDERATION OF INCORPORATION OF CURRENT LAW STANDARDS.—In developing contract performance requirements under section 1874A(b) of the Social Security Act, as inserted by paragraph (1), the Secretary shall consider inclusion of the performance standards described in sections 1816(f)(2) of such Act (relating to timely processing of reconsiderations and applications for exemptions) and section 1842(b)(2)(B) of such Act (relating to timely review of determinations and fair hearing requests), as such sections were in effect before the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS TO SECTION 1816 (RELATING TO FISCAL INTERMEDIARIES).—Section 1816 (42 U.S.C. 1395h) is amended as follows:

(1) The heading is amended to read as follows:

''PROVISIONS RELATING TO THE ADMINISTRATION OF PART A''.

(2) Subsection (a) is amended to read as follows:

''(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.''.

(3) Subsection (b) is repealed.

(4) Subsection (c) is amended—

(A) by striking paragraph (1); and

(B) in each of paragraphs (2)(A) and (3)(A), by striking ''agreement under this section'' and inserting ''contract under section 1874A that provides for making payments under this part''.

(5) Subsections (d) through (i) are repealed.

(6) Subsections (j) and (k) are each amended—

(A) by striking ''An agreement with an agency or organization under this section'' and inserting ''A contract with a medicare administrative contractor under section 1874A with respect to the administration of this part''; and

(B) by striking ''such agency or organization'' and inserting ''such medicare administrative contractor'' each place it appears.

(7) Subsection (l) is repealed.

(c) CONFORMING AMENDMENTS TO SECTION 1842 (RELATING TO CARRIERS).—Section 1842 (42 U.S.C. 1395u) is amended as follows:

(1) The heading is amended to read as follows:

''PROVISIONS RELATING TO THE ADMINISTRATION OF PART B''.

(2) Subsection (a) is amended to read as follows:

''(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.''.

(3) Subsection (b) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2)—

(i) by striking subparagraphs (A) and (B);

(ii) in subparagraph (C), by striking ''carriers'' and inserting ''medicare administrative contractors''; and

(iii) by striking subparagraphs (D) and (E);

(C) in paragraph (3)—

(i) in the matter before subparagraph (A), by striking ''Each such contract shall provide that the carrier'' and inserting ''The Secretary'';

(ii) by striking ''will'' the first place it appears in each of subparagraphs (A), (B), (F), (G), (H), and (L) and inserting ''shall'';

(iii) in subparagraph (B), in the matter before clause (i), by striking ''to the policyholders and subscribers of the carrier'' and

inserting ''to the policyholders and subscribers of the medicare administrative contractor'';

(iv) by striking subparagraphs (C), (D), and (E);

(v) in subparagraph (H)—

(I) by striking ''if it makes determinations or payments with respect to physicians' services,''; and

(II) by striking ''carrier'' and inserting ''medicare administrative contractor'';

(vi) by striking subparagraph (I);

(vii) in subparagraph (L), by striking the semicolon and inserting a period;

(viii) in the first sentence, after subparagraph (L), by striking ''and shall contain'' and all that follows through the period; and

(ix) in the seventh sentence, by inserting ''medicare administrative contractor,'' after ''carrier,''; and

(D) by striking paragraph (5);

(E) in paragraph (6)(D)(iv), by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(F) in paragraph (7), by striking ''the carrier'' and inserting ''the Secretary'' each place it appears.

(4) Subsection (c) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2), by striking ''contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B),'' and inserting ''contract under section 1874A that provides for making payments under this part'';

(C) in paragraph (3)(A), by striking ''subsection (a)(1)(B)'' and inserting ''section 1874A(a)(3)(B)'';

(D) in paragraph (4), by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(E) by striking paragraphs (5) and (6).

(5) Subsections (d), (e), and (f) are repealed.

(6) Subsection (g) is amended by striking ''carrier or carriers'' and inserting ''medicare administrative contractor or contractors''.

(7) Subsection (h) is amended—

(A) in paragraph (2)—

(i) by striking ''Each carrier having an agreement with the Secretary under subsection (a)'' and inserting ''The Secretary''; and

(ii) by striking ''Each such carrier'' and inserting ''The Secretary'';

(B) in paragraph (3)(A)—

(i) by striking ''a carrier having an agreement with the Secretary under subsection (a)'' and inserting ''medicare administrative contractor having a contract under section 1874A that provides for making payments under this part''; and

(ii) by striking ''such carrier'' and inserting ''such contractor'';

(C) in paragraph (3)(B)—

(i) by striking ''a carrier'' and inserting ''a medicare administrative contractor'' each place it appears; and

(ii) by striking ''the carrier'' and inserting ''the contractor'' each place it appears; and

(D) in paragraphs (5)(A) and (5)(B)(iii), by striking ''carriers'' and inserting ''medicare administrative contractors'' each place it appears.

(8) Subsection (l) is amended—

(A) in paragraph (1)(A)(iii), by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(B) in paragraph (2), by striking ''carrier'' and inserting ''medicare administrative contractor''.

(9) Subsection (p)(3)(A) is amended by striking ''carrier'' and inserting ''medicare administrative contractor''.

(10) Subsection (q)(1)(A) is amended by striking ''carrier''.

(d) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 2004, and the Secretary is authorized to take such steps before such date as may be necessary to implement such amendments on a timely basis.

(B) CONSTRUCTION FOR CURRENT CONTRACTS.—Such amendments shall not apply to contracts in effect before the date specified under subparagraph (A) that continue to retain the terms and conditions in effect on such date (except as otherwise provided under this Act, other than under this section) until such date as the contract is let out for competitive bidding under such amendments.

(C) DEADLINE FOR COMPETITIVE BIDDING.—The Secretary shall provide for the letting by competitive bidding of all contracts for functions of medicare administrative contractors for annual contract periods that begin on or after October 1, 2009.

(D) WAIVER OF PROVIDER NOMINATION PROVISIONS DURING TRANSITION.—During the period beginning on the date of the enactment of this Act and before the date specified under subparagraph (A), the Secretary may enter into new agreements under section 1816 of the Social Security Act (42 U.S.C. 1395h) without regard to any of the provider nomination provisions of such section.

(2) GENERAL TRANSITION RULES.—The Secretary shall take such steps, consistent with paragraph (1)(B) and (1)(C), as are necessary to provide for an appropriate transition from contracts under section 1816 and section 1842 of the Social Security Act (42 U.S.C. 1395h, 1395u) to contracts under section 1874A, as added by subsection (a)(1).

(3) AUTHORIZING CONTINUATION OF MIP FUNCTIONS UNDER CURRENT CONTRACTS AND AGREEMENTS AND UNDER ROLLOVER CONTRACTS.—The provisions contained in the exception in section 1893(d)(2) of the Social Security Act (42 U.S.C. 1395ddd(d)(2)) shall continue to apply notwithstanding the amendments made by this section, and any reference in such provisions to an agreement or contract shall be deemed to include a contract under section 1874A of such Act, as inserted by subsection (a)(1), that continues the activities referred to in such provisions.

(e) REFERENCES.—On and after the effective date provided under subsection (d)(1), any reference to a fiscal intermediary or carrier under title XI or XVIII of the Social Security Act (or any regulation, manual instruction, interpretative rule, statement of policy, or guideline issued to carry out such titles) shall be deemed a reference to an appropriate medicare administrative contractor (as provided under section 1874A of the Social Security Act).

(f) REPORTS ON IMPLEMENTATION.—

(1) PLAN FOR IMPLEMENTATION.—By not later than October 1, 2003, the Secretary shall submit a report to Congress and the Comptroller General of the United States that describes the plan for implementation of the amendments made by this section. The Comptroller General shall conduct an evaluation of such plan and shall submit to Congress, not later than 6 months after the date the report is received, a report on such evaluation and shall include in such report such recommendations as the Comptroller General deems appropriate.

(2) STATUS OF IMPLEMENTATION.—The Secretary shall submit a report to Congress not later than October 1, 2007, that describes the status of implementation of such amendments and that includes a description of the following:

(A) The number of contracts that have been competitively bid as of such date.

(B) The distribution of functions among contracts and contractors.

(C) A timeline for complete transition to full competition.

(D) A detailed description of how the Secretary has modified oversight and management of medicare contractors to adapt to full competition.

SEC. 812. REQUIREMENTS FOR INFORMATION SECURITY FOR MEDICARE ADMINISTRATIVE CONTRACTORS.

(a) IN GENERAL.—Section 1874A, as added by section 811(a)(1), is amended by adding at the end the following new subsection:

''(e) REQUIREMENTS FOR INFORMATION SECURITY.—

''(1) DEVELOPMENT OF INFORMATION SECURITY PROGRAM.—A medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall implement a contractor-wide information security program to provide information security for the operation and assets of the contractor with respect to such functions under this title. An information security program under this paragraph shall meet the requirements for information security programs imposed on Federal agencies under section 3534(b)(2) of title 44, United States Code (other than requirements under subparagraphs (B)(ii), (F)(iii), and (F)(iv) of such section).

''(2) INDEPENDENT AUDITS.—

''(A) PERFORMANCE OF ANNUAL EVALUATIONS.—Each year a medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall undergo an evaluation of the information security of the contractor with respect to such functions under this title. The evaluation shall—

''(i) be performed by an entity that meets such requirements for independence as the Inspector General of the Department of Health and Human Services may establish; and

''(ii) test the effectiveness of information security control techniques for an appropriate subset of the contractor's information systems (as defined in section 3502(8) of title 44, United States Code) relating to such functions under this title and an assessment of compliance with the requirements of this subsection and related information security policies, procedures, standards and guidelines.

''(B) DEADLINE FOR INITIAL EVALUATION.—

''(i) NEW CONTRACTORS.—In the case of a medicare administrative contractor covered by this subsection that has not previously performed the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) as a fiscal intermediary or carrier under section 1816 or 1842, the first independent evaluation conducted pursuant subparagraph (A) shall be completed prior to commencing such functions.

''(ii) OTHER CONTRACTORS.—In the case of a medicare administrative contractor covered by this subsection that is not described in clause (i), the first independent evaluation conducted pursuant subparagraph (A) shall be completed within 1 year after the date the contractor commences functions referred to in clause (i) under this section.

''(C) REPORTS ON EVALUATIONS.—

''(i) TO THE INSPECTOR GENERAL.—The results of independent evaluations under subparagraph (A) shall be submitted promptly to the Inspector General of the Department of Health and Human Services.

''(ii) TO CONGRESS.—The Inspector General of Department of Health and Human Services shall submit to Congress annual reports on the results of such evaluations.''.

(b) APPLICATION OF REQUIREMENTS TO FISCAL INTERMEDIARIES AND CARRIERS.—

(1) IN GENERAL.—The provisions of section 1874A(e)(2) of the Social Security Act (other than subparagraph (B)), as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(2) DEADLINE FOR INITIAL EVALUATION.—In the case of such a fiscal intermediary or carrier with an agreement or contract under such respective section in effect as of the date of the enactment of this Act, the first evaluation under section 1874A(e)(2)(A) of the Social Security Act (as added by subsection (a)), pursuant to paragraph (1), shall be completed (and a report on the evaluation submitted to the Secretary) by not later than 1 year after such date.

Subtitle C—Education and Outreach

SEC. 821. PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.

(a) COORDINATION OF EDUCATION FUNDING.—

(1) IN GENERAL.—The Social Security Act is amended by inserting after section 1888 the following new section:

''PROVIDER EDUCATION AND TECHNICAL ASSISTANCE

''SEC. 1889. (a) COORDINATION OF EDUCATION FUNDING.—The Secretary shall coordinate the educational activities provided through medicare contractors (as defined in subsection (g), including under section 1893) in order to maximize the effectiveness of Federal education efforts for providers of services and suppliers.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(3) REPORT.—Not later than October 1, 2003, the Secretary shall submit to Congress a report that includes a description and evaluation of the steps taken to coordinate the funding of provider education under section 1889(a) of the Social Security Act, as added by paragraph (1).

(b) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE.—

(1) IN GENERAL.—Section 1874A, as added by section 811(a)(1) and as amended by section 812(a), is amended by adding at the end the following new subsection:

''(f) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE IN PROVIDER EDUCATION AND OUTREACH.—In order to give medicare administrative contractors an incentive to implement effective education and outreach programs for providers of services and suppliers, the Secretary shall develop and implement a methodology to measure the specific claims payment error rates of such contractors in the processing or reviewing of medicare claims.''.

(2) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(f) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(3) GAO REPORT ON ADEQUACY OF METHODOLOGY.—Not later than October 1, 2003, the Comptroller General of the United States shall submit to Congress and to the Secretary a report on the adequacy of the methodology under section 1874A(f)) of the Social Security Act, as added by paragraph (1), and shall include in the report such recommendations as the Comptroller General determines appropriate with respect to the methodology.

(4) REPORT ON USE OF METHODOLOGY IN ASSESSING CONTRACTOR PERFORMANCE.—Not later than October 1, 2003, the Secretary shall submit to Congress a report that describes how the Secretary intends to use such methodology in assessing medicare contractor performance in implementing effective education and outreach programs, including whether to use such methodology as a basis for performance bonuses. The report shall include an analysis of the sources of identified errors and potential changes in systems of contractors and rules of the Secretary that could reduce claims error rates.

(c) PROVISION OF ACCESS TO AND PROMPT RESPONSES FROM MEDICARE ADMINISTRATIVE CONTRACTORS.—

(1) IN GENERAL.—Section 1874A, as added by section 811(a)(1) and as amended by section 812(a) and subsection (b), is further amended by adding at the end the following new subsection:

''(g) COMMUNICATIONS WITH BENEFICIARIES, PROVIDERS OF SERVICES AND SUPPLIERS.—

''(1) COMMUNICATION STRATEGY.—The Secretary shall develop a strategy for communications with individuals entitled to benefits under part A or enrolled under part B, or both, and with providers of services and suppliers under this title.

''(2) RESPONSE TO WRITTEN INQUIRIES.—Each medicare administrative contractor shall, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, provide general written responses (which may be through electronic transmission) in a clear, concise, and accurate manner to inquiries of providers of services, suppliers and individuals entitled to benefits under part A or enrolled under part B, or both, concerning the programs under this title within 45 business days of the date of receipt of such inquiries.

''(3) RESPONSE TO TOLL-FREE LINES.—The Secretary shall ensure that each medicare administrative contractor shall provide, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, a toll-free telephone number at which such individuals, providers of services and suppliers may obtain information regarding billing, coding, claims, coverage, and other appropriate information under this title.

''(4) MONITORING OF CONTRACTOR RESPONSES.—

''(A) IN GENERAL.—Each medicare administrative contractor shall, consistent with standards developed by the Secretary under subparagraph (B)—

''(i) maintain a system for identifying who provides the information referred to in paragraphs (2) and (3); and

''(ii) monitor the accuracy, consistency, and timeliness of the information so provided.

''(B) DEVELOPMENT OF STANDARDS.—

''(i) IN GENERAL.—The Secretary shall establish and make public standards to monitor the accuracy, consistency, and timeliness of the information provided in response to written and telephone inquiries under this subsection. Such standards shall be consistent with the performance requirements established under subsection (b)(3).

''(ii) EVALUATION.—In conducting evaluations of individual medicare administrative contractors, the Secretary shall take into account the results of the monitoring conducted under subparagraph (A) taking into account as performance requirements the standards established under clause (i). The Secretary shall, in consultation with organizations representing providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, establish standards relating to the accuracy, consistency, and timeliness of the information so provided.''.

''(C) DIRECT MONITORING.—Nothing in this paragraph shall be construed as preventing the Secretary from directly monitoring the accuracy, consistency, and timeliness of the information so provided.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 2003.

(3) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(g) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(d) IMPROVED PROVIDER EDUCATION AND TRAINING.—

(1) IN GENERAL.—Section 1889, as added by subsection (a), is amended by adding at the end the following new subsections:

''(b) ENHANCED EDUCATION AND TRAINING.—

''(1) ADDITIONAL RESOURCES.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) $25,000,000 for each of fiscal years 2004 and 2005 and such sums as may be necessary for succeeding fiscal years.

''(2) USE.—The funds made available under paragraph (1) shall be used to increase the conduct by medicare contractors of education and training of providers of services and suppliers regarding billing, coding, and other appropriate items and may also be used to improve the accuracy, consistency, and timeliness of contractor responses.

''(c) TAILORING EDUCATION AND TRAINING ACTIVITIES FOR SMALL PROVIDERS OR SUPPLIERS.—

''(1) IN GENERAL.—Insofar as a medicare contractor conducts education and training activities, it shall tailor such activities to meet the special needs of small providers of services or suppliers (as defined in paragraph (2)).

''(2) SMALL PROVIDER OF SERVICES OR SUPPLIER.—In this subsection, the term 'small provider of services or supplier' means—

''(A) a provider of services with fewer than 25 full-time-equivalent employees; or

''(B) a supplier with fewer than 10 full-time-equivalent employees.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2003.

(e) REQUIREMENT TO MAINTAIN INTERNET SITES.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsection (d), is further amended by adding at the end the following new subsection:

''(d) INTERNET SITES; FAQS.—The Secretary, and each medicare contractor insofar as it provides services (including claims processing) for providers of services or suppliers, shall maintain an Internet site which—

''(1) provides answers in an easily accessible format to frequently asked questions, and

''(2) includes other published materials of the contractor,

that relate to providers of services and suppliers under the programs under this title (and title XI insofar as it relates to such programs).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2003.

(f) ADDITIONAL PROVIDER EDUCATION PROVISIONS.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsections (d) and (e), is further amended by adding at the end the following new subsections:

''(e) ENCOURAGEMENT OF PARTICIPATION IN EDUCATION PROGRAM ACTIVITIES.—A medicare contractor may not use a record of attendance at (or failure to attend) educational activities or other information gathered during an educational program conducted under this section or otherwise by the Secretary to select or track providers of services or suppliers for the purpose of conducting any type of audit or prepayment review.

''(f) CONSTRUCTION.—Nothing in this section or section 1893(g) shall be construed as providing for disclosure by a medicare contractor of information that would compromise pending law enforcement activities or reveal findings of law enforcement-related audits.

''(g) DEFINITIONS.—For purposes of this section, the term 'medicare contractor' includes the following:

''(1) A medicare administrative contractor with a contract under section 1874A, including a fiscal intermediary with a contract under section 1816 and a carrier with a contract under section 1842.

''(2) An eligible entity with a contract under section 1893.

Such term does not include, with respect to activities of a specific provider of services or supplier an entity that has no authority under this title or title IX with respect to such activities and such provider of services or supplier.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 822. SMALL PROVIDER TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a demonstration program (in this section referred to as the ''demonstration program'') under which technical assistance described in paragraph (2) is made available, upon request and on a voluntary basis, to small providers of services or suppliers in order to improve compliance with the applicable requirements of the programs under medicare program under title XVIII of the Social Security Act (including provisions of title XI of such Act insofar as they relate to such title and are not administered by the Office of the Inspector General of the Department of Health and Human Services).

(2) FORMS OF TECHNICAL ASSISTANCE.—The technical assistance described in this paragraph is—

(A) evaluation and recommendations regarding billing and related systems; and

(B) information and assistance regarding policies and procedures under the medicare program, including coding and reimbursement.

(3) SMALL PROVIDERS OF SERVICES OR SUPPLIERS.—In this section, the term ''small providers of services or suppliers'' means—

(A) a provider of services with fewer than 25 full-time-equivalent employees; or

(B) a supplier with fewer than 10 full-time-equivalent employees.

(b) QUALIFICATION OF CONTRACTORS.—In conducting the demonstration program, the Secretary shall enter into contracts with qualified organizations (such as peer review organizations or entities described in section 1889(g)(2) of the Social Security Act, as inserted by section 5(f)(1)) with appropriate expertise with billing systems of the full range of providers of services and suppliers to provide the technical assistance. In awarding such contracts, the Secretary shall consider any prior investigations of the entity's work by the Inspector General of Department of Health and Human Services or the Comptroller General of the United States.

(c) DESCRIPTION OF TECHNICAL ASSISTANCE.—The technical assistance provided under the demonstration program shall include a direct and in-person examination of billing systems and internal controls of small providers of services or suppliers to determine program compliance and to suggest more efficient or effective means of achieving such compliance.

(d) AVOIDANCE OF RECOVERY ACTIONS FOR PROBLEMS IDENTIFIED AS CORRECTED.—The Secretary shall provide that, absent evidence of fraud and notwithstanding any other provision of law, any errors found in a compliance review for a small provider of services or supplier that participates in the demonstration program shall not be subject to recovery action if the technical assistance personnel under the program determine that—

(1) the problem that is the subject of the compliance review has been corrected to their satisfaction within 30 days of the date of the visit by such personnel to the small provider of services or supplier; and

(2) such problem remains corrected for such period as is appropriate.

The previous sentence applies only to claims filed as part of the demonstration program and lasts only for the duration of such program and only as long as the small provider of services or supplier is a participant in such program.

(e) GAO EVALUATION.—Not later than 2 years after the date of the date the demonstration program is first implemented, the Comptroller General, in consultation with the Inspector General of the Department of Health and Human Services, shall conduct an evaluation of the demonstration program. The evaluation shall include a determination of whether claims error rates are reduced for small providers of services or suppliers who participated in the program and the extent of improper payments made as a result of the demonstration program. The Comptroller General shall submit a report to the Secretary and the Congress on such evaluation and shall include in such report recommendations regarding the continuation or extension of the demonstration program.

(f) FINANCIAL PARTICIPATION BY PROVIDERS.—The provision of technical assistance to a small provider of services or supplier under the demonstration program is conditioned upon the small provider of services or supplier paying an amount estimated (and disclosed in advance of a provider's or supplier's participation in the program) to be equal to 25 percent of the cost of the technical assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the demonstration program—

(1) for fiscal year 2004, $1,000,000, and

(2) for fiscal year 2005, $6,000,000.

SEC. 823. MEDICARE PROVIDER OMBUDSMAN; MEDICARE BENEFICIARY OMBUDSMAN.

(a) MEDICARE PROVIDER OMBUDSMAN.—Section 1868 (42 U.S.C. 1395ee) is amended—

(1) by adding at the end of the heading the following: ''; MEDICARE PROVIDER OMBUDSMAN'';

(2) by inserting ''PRACTICING PHYSICIANS ADVISORY COUNCIL.—(1)'' after ''(a)'';

(3) in paragraph (1), as so redesignated under paragraph (2), by striking ''in this section'' and inserting ''in this subsection'';

(4) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively; and

(5) by adding at the end the following new subsection:

''(b) MEDICARE PROVIDER OMBUDSMAN.—The Secretary shall appoint within the Department of Health and Human Services a Medicare Provider Ombudsman. The Ombudsman shall—

''(1) provide assistance, on a confidential basis, to providers of services and suppliers with respect to complaints, grievances, and requests for information concerning the programs under this title (including provisions of title XI insofar as they relate to this title and are not administered by the Office of the Inspector General of the Department of Health and Human Services) and in the resolution of unclear or conflicting guidance given by the Secretary and medicare contractors to such providers of services and suppliers regarding such programs and provisions and requirements under this title and such provisions; and

''(2) submit recommendations to the Secretary for improvement in the administration of this title and such provisions, including—

''(A) recommendations to respond to recurring patterns of confusion in this title and such provisions (including recommendations regarding suspending imposition of sanctions where there is widespread confusion in program administration), and

''(B) recommendations to provide for an appropriate and consistent response (including not providing for audits) in cases of self-identified overpayments by providers of services and suppliers.

The Ombudsman shall not serve as an advocate for any increases in payments or new coverage of services, but may identify issues and problems in payment or coverage policies.''.

(b) MEDICARE BENEFICIARY OMBUDSMAN.—Title XVIII, as amended by sections 105 and 701, is amended by inserting after section 1808 the following new section:

''MEDICARE BENEFICIARY OMBUDSMAN

''SEC. 1809. (a) IN GENERAL.—The Secretary shall appoint within the Department of Health and Human Services a Medicare Beneficiary Ombudsman who shall have expertise and experience in the fields of health care and education of (and assistance to) individuals entitled to benefits under this title.

''(b) DUTIES.—The Medicare Beneficiary Ombudsman shall—

''(1) receive complaints, grievances, and requests for information submitted by individuals entitled to benefits under part A or enrolled under part B, or both, with respect to any aspect of the medicare program;

''(2) provide assistance with respect to complaints, grievances, and requests referred to in paragraph (1), including—

''(A) assistance in collecting relevant information for such individuals, to seek an appeal of a decision or determination made by a fiscal intermediary, carrier, Medicare+Choice organization, or the Secretary; and

''(B) assistance to such individuals with any problems arising from disenrollment from a Medicare+Choice plan under part C; and

''(3) submit annual reports to Congress and the Secretary that describe the activities of the Office and that include such recommendations for improvement in the administration of this title as the Ombudsman determines appropriate.

The Ombudsman shall not serve as an advocate for any increases in payments or new

coverage of services, but may identify issues and problems in payment or coverage policies.

''(c) WORKING WITH HEALTH INSURANCE COUNSELING PROGRAMS.—To the extent possible, the Ombudsman shall work with health insurance counseling programs (receiving funding under section 4360 of Omnibus Budget Reconciliation Act of 1990) to facilitate the provision of information to individuals entitled to benefits under part A or enrolled under part B, or both regarding Medicare+Choice plans and changes to those plans. Nothing in this subsection shall preclude further collaboration between the Ombudsman and such programs.''.

(c) DEADLINE FOR APPOINTMENT.—The Secretary shall appoint the Medicare Provider Ombudsman and the Medicare Beneficiary Ombudsman, under the amendments made by subsections (a) and (b), respectively, by not later than 1 year after the date of the enactment of this Act.

(d) FUNDING.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the provisions of subsection (b) of section 1868 of the Social Security Act (relating to the Medicare Provider Ombudsman), as added by subsection (a)(5) and section 1809 of such Act (relating to the Medicare Beneficiary Ombudsman), as added by subsection (b), such sums as are necessary for fiscal year 2003 and each succeeding fiscal year.

(e) USE OF CENTRAL, TOLL-FREE NUMBER (1-800-MEDICARE).—

(1) PHONE TRIAGE SYSTEM; LISTING IN MEDICARE HANDBOOK INSTEAD OF OTHER TOLL-FREE NUMBERS.—Section 1804(b) (42 U.S.C. 1395b–2(b)) is amended by adding at the end the following: ''The Secretary shall provide, through the toll-free number 1-800-MEDICARE, for a means by which individuals seeking information about, or assistance with, such programs who phone such toll-free number are transferred (without charge) to appropriate entities for the provision of such information or assistance. Such toll-free number shall be the toll-free number listed for general information and assistance in the annual notice under subsection (a) instead of the listing of numbers of individual contractors.''.

(2) MONITORING ACCURACY.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study to monitor the accuracy and consistency of information provided to individuals entitled to benefits under part A or enrolled under part B, or both, through the toll-free number 1-800-MEDICARE, including an assessment of whether the information provided is sufficient to answer questions of such individuals. In conducting the study, the Comptroller General shall examine the education and training of the individuals providing information through such number.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subparagraph (A).

SEC. 824. BENEFICIARY OUTREACH DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a demonstration program (in this section referred to as the ''demonstration program'') under which medicare specialists employed by the Department of Health and Human Services provide advice and assistance to individuals entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both, regarding the medicare program at the location of existing local offices of the Social Security Administration.

(b) LOCATIONS.—

(1) IN GENERAL.—The demonstration program shall be conducted in at least 6 offices or areas. Subject to paragraph (2), in selecting such offices and areas, the Secretary shall provide preference for offices with a high volume of visits by individuals referred to in subsection (a).

(2) ASSISTANCE FOR RURAL BENEFICIARIES.—The Secretary shall provide for the selection of at least 2 rural areas to participate in the demonstration program. In conducting the demonstration program in such rural areas, the Secretary shall provide for medicare specialists to travel among local offices in a rural area on a scheduled basis.

(c) DURATION.—The demonstration program shall be conducted over a 3-year period.

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall provide for an evaluation of the demonstration program. Such evaluation shall include an analysis of—

(A) utilization of, and satisfaction of those individuals referred to in subsection (a) with, the assistance provided under the program; and

(B) the cost-effectiveness of providing beneficiary assistance through out-stationing medicare specialists at local offices of the Social Security Administration.

(2) REPORT.—The Secretary shall submit to Congress a report on such evaluation and shall include in such report recommendations regarding the feasibility of permanently out-stationing medicare specialists at local offices of the Social Security Administration.

Subtitle D—Appeals and Recovery

SEC. 831. TRANSFER OF RESPONSIBILITY FOR MEDICARE APPEALS.

(a) TRANSITION PLAN.—

(1) IN GENERAL.—Not later than October 1, 2003, the Commissioner of Social Security and the Secretary shall develop and transmit to Congress and the Comptroller General of the United States a plan under which the functions of administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions in title XI of such Act) are transferred from the responsibility of the Commissioner and the Social Security Administration to the Secretary and the Department of Health and Human Services.

(2) GAO EVALUATION.—The Comptroller General of the United States shall evaluate the plan and, not later than the date that is 6 months after the date on which the plan is received by the Comptroller General, shall submit to Congress a report on such evaluation.

(b) TRANSFER OF ADJUDICATION AUTHORITY.—

(1) IN GENERAL.—Not earlier than July 1, 2004, and not later than October 1, 2004, the Commissioner of Social Security and the Secretary shall implement the transition plan under subsection (a) and transfer the administrative law judge functions described in such subsection from the Social Security Administration to the Secretary.

(2) ASSURING INDEPENDENCE OF JUDGES.—The Secretary shall assure the independence of administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Centers for Medicare & Medicaid Services and its contractors.

(3) GEOGRAPHIC DISTRIBUTION.—The Secretary shall provide for an appropriate geographic distribution of administrative law judges performing the administrative law judge functions transferred under paragraph (1) throughout the United States to ensure timely access to such judges.

(4) HIRING AUTHORITY.—Subject to the amounts provided in advance in appropriations Act, the Secretary shall have authority to hire administrative law judges to hear such cases, giving priority to those judges with prior experience in handling medicare appeals and in a manner consistent with paragraph (3), and to hire support staff for such judges.

(5) FINANCING.—Amounts payable under law to the Commissioner for administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund shall become payable to the Secretary for the functions so transferred.

(6) SHARED RESOURCES.—The Secretary shall enter into such arrangements with the Commissioner as may be appropriate with respect to transferred functions of administrative law judges to share office space, support staff, and other resources, with appropriate reimbursement from the Trust Funds described in paragraph (5).

(c) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, to ensure timely action on appeals before administrative law judges and the Departmental Appeals Board consistent with section 1869 of the Social Security Act (as amended by section 521 of BIPA, 114 Stat. 2763A–534), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary such sums as are necessary for fiscal year 2004 and each subsequent fiscal year to—

(1) increase the number of administrative law judges (and their staffs) under subsection (b)(4);

(2) improve education and training opportunities for administrative law judges (and their staffs); and

(3) increase the staff of the Departmental Appeals Board.

(d) CONFORMING AMENDMENT.—Section 1869(f)(2)(A)(i) (42 U.S.C. 1395ff(f)(2)(A)(i)), as added by section 522(a) of BIPA (114 Stat. 2763A–543), is amended by striking ''of the Social Security Administration''.

SEC. 832. PROCESS FOR EXPEDITED ACCESS TO REVIEW.

(a) EXPEDITED ACCESS TO JUDICIAL REVIEW.—Section 1869(b) (42 U.S.C. 1395ff(b)) as amended by BIPA, is amended—

(1) in paragraph (1)(A), by inserting '', subject to paragraph (2),'' before ''to judicial review of the Secretary's final decision'';

(2) in paragraph (1)(F)—

(A) by striking clause (ii);

(B) by striking ''PROCEEDING'' and all that follows through ''DETERMINATION'' and inserting ''DETERMINATIONS AND RECONSIDERATIONS''; and

(C) by redesignating subclauses (I) and (II) as clauses (i) and (ii) and by moving the indentation of such subclauses (and the matter that follows) 2 ems to the left; and

(3) by adding at the end the following new paragraph:

''(2) EXPEDITED ACCESS TO JUDICIAL REVIEW.—

''(A) IN GENERAL.—The Secretary shall establish a process under which a provider of services or supplier that furnishes an item or service or an individual entitled to benefits under part A or enrolled under part B, or both, who has filed an appeal under paragraph (1) may obtain access to judicial review when a review panel (described in subparagraph (D)), on its own motion or at the request of the appellant, determines that no entity in the administrative appeals process has the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may

make such request only once with respect to a question of law or regulation in a case of an appeal.

''(B) PROMPT DETERMINATIONS.—If, after or coincident with appropriately filing a request for an administrative hearing, the appellant requests a determination by the appropriate review panel that no review panel has the authority to decide the question of law or regulations relevant to the matters in controversy and that there is no material issue of fact in dispute and if such request is accompanied by the documents and materials as the appropriate review panel shall require for purposes of making such determination, such review panel shall make a determination on the request in writing within 60 days after the date such review panel receives the request and such accompanying documents and materials. Such a determination by such review panel shall be considered a final decision and not subject to review by the Secretary.

''(C) ACCESS TO JUDICIAL REVIEW.—

''(i) IN GENERAL.—If the appropriate review panel—

''(I) determines that there are no material issues of fact in dispute and that the only issue is one of law or regulation that no review panel has the authority to decide; or

''(II) fails to make such determination within the period provided under subparagraph (B);

then the appellant may bring a civil action as described in this subparagraph.

''(ii) DEADLINE FOR FILING.—Such action shall be filed, in the case described in—

''(I) clause (i)(I), within 60 days of date of the determination described in such subparagraph; or

''(II) clause (i)(II), within 60 days of the end of the period provided under subparagraph (B) for the determination.

''(iii) VENUE.—Such action shall be brought in the district court of the United States for the judicial district in which the appellant is located (or, in the case of an action brought jointly by more than one applicant, the judicial district in which the greatest number of applicants are located) or in the district court for the District of Columbia.

''(iv) INTEREST ON AMOUNTS IN CONTROVERSY.—Where a provider of services or supplier seeks judicial review pursuant to this paragraph, the amount in controversy shall be subject to annual interest beginning on the first day of the first month beginning after the 60-day period as determined pursuant to clause (ii) and equal to the rate of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund and by the Federal Supplementary Medical Insurance Trust Fund for the month in which the civil action authorized under this paragraph is commenced, to be awarded by the reviewing court in favor of the prevailing party. No interest awarded pursuant to the preceding sentence shall be deemed income or cost for the purposes of determining reimbursement due providers of services or suppliers under this Act.

''(D) REVIEW PANELS.—For purposes of this subsection, a 'review panel' is a panel consisting of 3 members (who shall be administrative law judges, members of the Departmental Appeals Board, or qualified individuals associated with a qualified independent contractor (as defined in subsection (c)(2)) or with another independent entity) designated by the Secretary for purposes of making determinations under this paragraph.''.

(b) APPLICATION TO PROVIDER AGREEMENT DETERMINATIONS.—Section 1866(h)(1) (42 U.S.C. 1395cc(h)(1)) is amended—

(1) by inserting ''(A)'' after ''(h)(1)''; and

(2) by adding at the end the following new subparagraph:

''(B) An institution or agency described in subparagraph (A) that has filed for a hearing under subparagraph (A) shall have expedited access to judicial review under this subparagraph in the same manner as providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, may obtain expedited access to judicial review under the process established under section 1869(b)(2). Nothing in this subparagraph shall be construed to affect the application of any remedy imposed under section 1819 during the pendency of an appeal under this subparagraph.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to appeals filed on or after October 1, 2003.

(d) EXPEDITED REVIEW OF CERTAIN PROVIDER AGREEMENT DETERMINATIONS.—

(1) TERMINATION AND CERTAIN OTHER IMMEDIATE REMEDIES.—The Secretary shall develop and implement a process to expedite proceedings under sections 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)) in which the remedy of termination of participation, or a remedy described in clause (i) or (iii) of section 1819(h)(2)(B) of such Act (42 U.S.C. 1395i–3(h)(2)(B)) which is applied on an immediate basis, has been imposed. Under such process priority shall be provided in cases of termination.

(2) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, to reduce by 50 percent the average time for administrative determinations on appeals under section 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary such additional sums for fiscal year 2004 and each subsequent fiscal year as may be necessary. The purposes for which such amounts are available include increasing the number of administrative law judges (and their staffs) and the appellate level staff at the Departmental Appeals Board of the Department of Health and Human Services and educating such judges and staffs on long-term care issues.

SEC. 833. REVISIONS TO MEDICARE APPEALS PROCESS.

(a) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE.—

(1) IN GENERAL.—Section 1869(b) (42 U.S.C. 1395ff(b)), as amended by BIPA and as amended by section 832(a), is further amended by adding at the end the following new paragraph:

''(3) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE BY PROVIDERS.—A provider of services or supplier may not introduce evidence in any appeal under this section that was not presented at the reconsideration conducted by the qualified independent contractor under subsection (c), unless there is good cause which precluded the introduction of such evidence at or before that reconsideration.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2003.

(b) USE OF PATIENTS' MEDICAL RECORDS.—Section 1869(c)(3)(B)(i) (42 U.S.C. 1395ff(c)(3)(B)(i)), as amended by BIPA, is amended by inserting ''(including the medical records of the individual involved)'' after ''clinical experience''.

(c) NOTICE REQUIREMENTS FOR MEDICARE APPEALS.—

(1) INITIAL DETERMINATIONS AND REDETERMINATIONS.—Section 1869(a) (42 U.S.C. 1395ff(a)), as amended by BIPA, is amended by adding at the end the following new paragraph:

''(4) REQUIREMENTS OF NOTICE OF DETERMINATIONS AND REDETERMINATIONS.—A written notice of a determination on an initial determination or on a redetermination, insofar as such determination or redetermination results in a denial of a claim for benefits, shall include—

''(A) the specific reasons for the determination, including—

''(i) upon request, the provision of the policy, manual, or regulation used in making the determination; and

''(ii) as appropriate in the case of a redetermination, a summary of the clinical or scientific evidence used in making the determination;

''(B) the procedures for obtaining additional information concerning the determination or redetermination; and

''(C) notification of the right to seek a redetermination or otherwise appeal the determination and instructions on how to initiate such a redetermination or appeal under this section.

The written notice on a redetermination shall be provided in printed form and written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both.''.

(2) RECONSIDERATIONS.—Section 1869(c)(3)(E) (42 U.S.C. 1395ff(c)(3)(E)), as amended by BIPA, is amended—

(A) by inserting ''be written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include (to the extent appropriate)'' after ''in writing, ''; and

(B) by inserting ''and a notification of the right to appeal such determination and instructions on how to initiate such appeal under this section'' after ''such decision, ''.

(3) APPEALS.—Section 1869(d) (42 U.S.C. 1395ff(d)), as amended by BIPA, is amended—

(A) in the heading, by inserting ''; NOTICE'' after ''SECRETARY''; and

(B) by adding at the end the following new paragraph:

''(4) NOTICE.—Notice of the decision of an administrative law judge shall be in writing in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include—

''(A) the specific reasons for the determination (including, to the extent appropriate, a summary of the clinical or scientific evidence used in making the determination);

''(B) the procedures for obtaining additional information concerning the decision; and

''(C) notification of the right to appeal the decision and instructions on how to initiate such an appeal under this section.''.

(4) SUBMISSION OF RECORD FOR APPEAL.—Section 1869(c)(3)(J)(i) (42 U.S.C. 1395ff(c)(3)(J)(i)) by striking ''prepare'' and inserting ''submit'' and by striking ''with respect to'' and all that follows through ''and relevant policies''.

(d) QUALIFIED INDEPENDENT CONTRACTORS.—

(1) ELIGIBILITY REQUIREMENTS OF QUALIFIED INDEPENDENT CONTRACTORS.—Section 1869(c)(3) (42 U.S.C. 1395ff(c)(3)), as amended by BIPA, is amended—

(A) in subparagraph (A), by striking ''sufficient training and expertise in medical science and legal matters'' and inserting ''sufficient medical, legal, and other expertise (including knowledge of the program under this title) and sufficient staffing''; and

(B) by adding at the end the following new subparagraph:

''(K) INDEPENDENCE REQUIREMENTS.—

''(i) IN GENERAL.—Subject to clause (ii), a qualified independent contractor shall not conduct any activities in a case unless the entity—

''(I) is not a related party (as defined in subsection (g)(5));

''(II) does not have a material familial, financial, or professional relationship with such a party in relation to such case; and

''(III) does not otherwise have a conflict of interest with such a party.

''(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified independent contractor of compensation from the Secretary for the conduct of activities under this section if the compensation is provided consistent with clause (iii).

''(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by the Secretary to a qualified independent contractor in connection with reviews under this section shall not be contingent on any decision rendered by the contractor or by any reviewing professional.''.

(2) ELIGIBILITY REQUIREMENTS FOR REVIEWERS.—Section 1869 (42 U.S.C. 1395ff), as amended by BIPA, is amended—

(A) by amending subsection (c)(3)(D) to read as follows:

''(D) QUALIFICATIONS FOR REVIEWERS.—The requirements of subsection (g) shall be met (relating to qualifications of reviewing professionals).''; and

(B) by adding at the end the following new subsection:

''(g) QUALIFICATIONS OF REVIEWERS.—

''(1) IN GENERAL.—In reviewing determinations under this section, a qualified independent contractor shall assure that—

''(A) each individual conducting a review shall meet the qualifications of paragraph (2);

''(B) compensation provided by the contractor to each such reviewer is consistent with paragraph (3); and

''(C) in the case of a review by a panel described in subsection (c)(3)(B) composed of physicians or other health care professionals (each in this subsection referred to as a 'reviewing professional'), each reviewing professional meets the qualifications described in paragraph (4) and, where a claim is regarding the furnishing of treatment by a physician (allopathic or osteopathic) or the provision of items or services by a physician (allopathic or osteopathic), each reviewing professional shall be a physician (allopathic or osteopathic).

''(2) INDEPENDENCE.—

''(A) IN GENERAL.—Subject to subparagraph (B), each individual conducting a review in a case shall—

''(i) not be a related party (as defined in paragraph (5));

''(ii) not have a material familial, financial, or professional relationship with such a party in the case under review; and

''(iii) not otherwise have a conflict of interest with such a party.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit an individual, solely on the basis of a participation agreement with a fiscal intermediary, carrier, or other contractor, from serving as a reviewing professional if—

''(I) the individual is not involved in the provision of items or services in the case under review;

''(II) the fact of such an agreement is disclosed to the Secretary and the individual entitled to benefits under part A or enrolled under part B, or both, (or authorized representative) and neither party objects; and

''(III) the individual is not an employee of the intermediary, carrier, or contractor and does not provide services exclusively or primarily to or on behalf of such intermediary, carrier, or contractor;

''(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as a reviewer merely on the basis of having such staff privileges if the existence of such privileges is disclosed to the Secretary and such individual (or authorized representative), and neither party objects; or

''(iii) prohibit receipt of compensation by a reviewing professional from a contractor if the compensation is provided consistent with paragraph (3).

For purposes of this paragraph, the term 'participation agreement' means an agreement relating to the provision of health care services by the individual and does not include the provision of services as a reviewer under this subsection.

''(3) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified independent contractor to a reviewer in connection with a review under this section shall not be contingent on the decision rendered by the reviewer.

''(4) LICENSURE AND EXPERTISE.—Each reviewing professional shall be—

''(A) a physician (allopathic or osteopathic) who is appropriately credentialed or licensed in one or more States to deliver health care services and has medical expertise in the field of practice that is appropriate for the items or services at issue; or

''(B) a health care professional who is legally authorized in one or more States (in accordance with State law or the State regulatory mechanism provided by State law) to furnish the health care items or services at issue and has medical expertise in the field of practice that is appropriate for such items or services.

''(5) RELATED PARTY DEFINED.—For purposes of this section, the term 'related party' means, with respect to a case under this title involving a specific individual entitled to benefits under part A or enrolled under part B, or both, any of the following:

''(A) The Secretary, the medicare administrative contractor involved, or any fiduciary, officer, director, or employee of the Department of Health and Human Services, or of such contractor.

''(B) The individual (or authorized representative).

''(C) The health care professional that provides the items or services involved in the case.

''(D) The institution at which the items or services (or treatment) involved in the case are provided.

''(E) The manufacturer of any drug or other item that is included in the items or services involved in the case.

''(F) Any other party determined under any regulations to have a substantial interest in the case involved.''.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall be effective as if included in the enactment of the respective provisions of subtitle C of title V of BIPA, (114 Stat. 2763A–534).

(4) TRANSITION.—In applying section 1869(g) of the Social Security Act (as added by paragraph (2)), any reference to a medicare administrative contractor shall be deemed to include a reference to a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and a carrier under section 1842 of such Act (42 U.S.C. 1395u).

SEC. 834. PREPAYMENT REVIEW.

(a) IN GENERAL.—Section 1874A, as added by section 811(a)(1) and as amended by sections 812(b), 821(b)(1), and 831(c)(1), is further amended by adding at the end the following new subsection:

''(h) CONDUCT OF PREPAYMENT REVIEW.—

''(1) CONDUCT OF RANDOM PREPAYMENT REVIEW.—

''(A) IN GENERAL.—A medicare administrative contractor may conduct random prepayment review only to develop a contractor-wide or program-wide claims payment error rates or under such additional circumstances as may be provided under regulations, developed in consultation with providers of services and suppliers.

''(B) USE OF STANDARD PROTOCOLS WHEN CONDUCTING PREPAYMENT REVIEWS.—When a medicare administrative contractor conducts a random prepayment review, the contractor may conduct such review only in accordance with a standard protocol for random prepayment audits developed by the Secretary.

''(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing the denial of payments for claims actually reviewed under a random prepayment review.

''(D) RANDOM PREPAYMENT REVIEW.—For purposes of this subsection, the term 'random prepayment review' means a demand for the production of records or documentation absent cause with respect to a claim.

''(2) LIMITATIONS ON NON-RANDOM PREPAYMENT REVIEW.—

''(A) LIMITATIONS ON INITIATION OF NON-RANDOM PREPAYMENT REVIEW.—A medicare administrative contractor may not initiate non-random prepayment review of a provider of services or supplier based on the initial identification by that provider of services or supplier of an improper billing practice unless there is a likelihood of sustained or high level of payment error (as defined in subsection (i)(3)(A)).

''(B) TERMINATION OF NON-RANDOM PREPAYMENT REVIEW.—The Secretary shall issue regulations relating to the termination, including termination dates, of non-random prepayment review. Such regulations may vary such a termination date based upon the differences in the circumstances triggering prepayment review.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

(2) DEADLINE FOR PROMULGATION OF CERTAIN REGULATIONS.—The Secretary shall first issue regulations under section 1874A(h) of the Social Security Act, as added by subsection (a), by not later than 1 year after the date of the enactment of this Act.

(3) APPLICATION OF STANDARD PROTOCOLS FOR RANDOM PREPAYMENT REVIEW.—Section 1874A(h)(1)(B) of the Social Security Act, as added by subsection (a), shall apply to random prepayment reviews conducted on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary shall specify.

(c) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(h) of the Social Security Act, as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

SEC. 835. RECOVERY OF OVERPAYMENTS.

(a) IN GENERAL.—Section 1893 (42 U.S.C. 1395ddd) is amended by adding at the end the following new subsection:

''(f) RECOVERY OF OVERPAYMENTS.—

''(1) USE OF REPAYMENT PLANS.—

''(A) IN GENERAL.—If the repayment, within 30 days by a provider of services or supplier, of an overpayment under this title would constitute a hardship (as defined in subparagraph (B)), subject to subparagraph (C), upon request of the provider of services or supplier the Secretary shall enter into a plan with the provider of services or supplier for the repayment (through offset or otherwise) of

such overpayment over a period of at least 6 months but not longer than 3 years (or not longer than 5 years in the case of extreme hardship, as determined by the Secretary). Interest shall accrue on the balance through the period of repayment. Such plan shall meet terms and conditions determined to be appropriate by the Secretary.

''(B) HARDSHIP.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the repayment of an overpayment (or overpayments) within 30 days is deemed to constitute a hardship if—

''(I) in the case of a provider of services that files cost reports, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services for the cost reporting period covered by the most recently submitted cost report; or

''(II) in the case of another provider of services or supplier, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services or supplier for the previous calendar year.

''(ii) RULE OF APPLICATION.—The Secretary shall establish rules for the application of this subparagraph in the case of a provider of services or supplier that was not paid under this title during the previous year or was paid under this title only during a portion of that year.

''(iii) TREATMENT OF PREVIOUS OVERPAYMENTS.—If a provider of services or supplier has entered into a repayment plan under subparagraph (A) with respect to a specific overpayment amount, such payment amount under the repayment plan shall not be taken into account under clause (i) with respect to subsequent overpayment amounts.

''(C) EXCEPTIONS.—Subparagraph (A) shall not apply if—

''(i) the Secretary has reason to suspect that the provider of services or supplier may file for bankruptcy or otherwise cease to do business or discontinue participation in the program under this title; or

''(ii) there is an indication of fraud or abuse committed against the program.

''(D) IMMEDIATE COLLECTION IF VIOLATION OF REPAYMENT PLAN.—If a provider of services or supplier fails to make a payment in accordance with a repayment plan under this paragraph, the Secretary may immediately seek to offset or otherwise recover the total balance outstanding (including applicable interest) under the repayment plan.

''(E) RELATION TO NO FAULT PROVISION.—Nothing in this paragraph shall be construed as affecting the application of section 1870(c) (relating to no adjustment in the cases of certain overpayments).

''(2) LIMITATION ON RECOUPMENT.—

''(A) IN GENERAL.—In the case of a provider of services or supplier that is determined to have received an overpayment under this title and that seeks a reconsideration by a qualified independent contractor on such determination under section 1869(b)(1), the Secretary may not take any action (or authorize any other person, including any medicare contractor, as defined in subparagraph (C) to recoup the overpayment until the date the decision on the reconsideration has been rendered. If the provisions of section 1869(b)(1) (providing for such a reconsideration by a qualified independent contractor) are not in effect, in applying the previous sentence any reference to such a reconsideration shall be treated as a reference to a redetermination by the fiscal intermediary or carrier involved.

''(B) COLLECTION WITH INTEREST.—Insofar as the determination on such appeal is against the provider of services or supplier, interest on the overpayment shall accrue on and after the date of the original notice of overpayment. Insofar as such determination against the provider of services or supplier is later reversed, the Secretary shall provide for repayment of the amount recouped plus interest at the same rate as would apply under the previous sentence for the period in which the amount was recouped.

''(C) MEDICARE CONTRACTOR DEFINED.—For purposes of this subsection, the term 'medicare contractor' has the meaning given such term in section 1889(g).

''(3) LIMITATION ON USE OF EXTRAPOLATION.—A medicare contractor may not use extrapolation to determine overpayment amounts to be recovered by recoupment, offset, or otherwise unless—

''(A) there is a sustained or high level of payment error (as defined by the Secretary by regulation); or

''(B) documented educational intervention has failed to correct the payment error (as determined by the Secretary).

''(4) PROVISION OF SUPPORTING DOCUMENTATION.—In the case of a provider of services or supplier with respect to which amounts were previously overpaid, a medicare contractor may request the periodic production of records or supporting documentation for a limited sample of submitted claims to ensure that the previous practice is not continuing.

''(5) CONSENT SETTLEMENT REFORMS.—

''(A) IN GENERAL.—The Secretary may use a consent settlement (as defined in subparagraph (D)) to settle a projected overpayment.

''(B) OPPORTUNITY TO SUBMIT ADDITIONAL INFORMATION BEFORE CONSENT SETTLEMENT OFFER.—Before offering a provider of services or supplier a consent settlement, the Secretary shall—

''(i) communicate to the provider of services or supplier—

''(I) that, based on a review of the medical records requested by the Secretary, a preliminary evaluation of those records indicates that there would be an overpayment;

''(II) the nature of the problems identified in such evaluation; and

''(III) the steps that the provider of services or supplier should take to address the problems; and

''(ii) provide for a 45-day period during which the provider of services or supplier may furnish additional information concerning the medical records for the claims that had been reviewed.

''(C) CONSENT SETTLEMENT OFFER.—The Secretary shall review any additional information furnished by the provider of services or supplier under subparagraph (B)(ii). Taking into consideration such information, the Secretary shall determine if there still appears to be an overpayment. If so, the Secretary—

''(i) shall provide notice of such determination to the provider of services or supplier, including an explanation of the reason for such determination; and

''(ii) in order to resolve the overpayment, may offer the provider of services or supplier—

''(I) the opportunity for a statistically valid random sample; or

''(II) a consent settlement.

The opportunity provided under clause (ii)(I) does not waive any appeal rights with respect to the alleged overpayment involved.

''(D) CONSENT SETTLEMENT DEFINED.—For purposes of this paragraph, the term 'consent settlement' means an agreement between the Secretary and a provider of services or supplier whereby both parties agree to settle a projected overpayment based on less than a statistically valid sample of claims and the provider of services or supplier agrees not to appeal the claims involved.

''(6) NOTICE OF OVER-UTILIZATION OF CODES.—The Secretary shall establish, in consultation with organizations representing the classes of providers of services and suppliers, a process under which the Secretary provides for notice to classes of providers of services and suppliers served by the contractor in cases in which the contractor has identified that particular billing codes may be overutilized by that class of providers of services or suppliers under the programs under this title (or provisions of title XI insofar as they relate to such programs).

''(7) PAYMENT AUDITS.—

''(A) WRITTEN NOTICE FOR POST-PAYMENT AUDITS.—Subject to subparagraph (C), if a medicare contractor decides to conduct a post-payment audit of a provider of services or supplier under this title, the contractor shall provide the provider of services or supplier with written notice (which may be in electronic form) of the intent to conduct such an audit.

''(B) EXPLANATION OF FINDINGS FOR ALL AUDITS.—Subject to subparagraph (C), if a medicare contractor audits a provider of services or supplier under this title, the contractor shall—

''(i) give the provider of services or supplier a full review and explanation of the findings of the audit in a manner that is understandable to the provider of services or supplier and permits the development of an appropriate corrective action plan;

''(ii) inform the provider of services or supplier of the appeal rights under this title as well as consent settlement options (which are at the discretion of the Secretary);

''(iii) give the provider of services or supplier an opportunity to provide additional information to the contractor; and

''(iv) take into account information provided, on a timely basis, by the provider of services or supplier under clause (iii).

''(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply if the provision of notice or findings would compromise pending law enforcement activities, whether civil or criminal, or reveal findings of law enforcement-related audits.

''(8) STANDARD METHODOLOGY FOR PROBE SAMPLING.—The Secretary shall establish a standard methodology for medicare contractors to use in selecting a sample of claims for review in the case of an abnormal billing pattern.''.

(b) EFFECTIVE DATES AND DEADLINES.—

(1) USE OF REPAYMENT PLANS.—Section 1893(f)(1) of the Social Security Act, as added by subsection (a), shall apply to requests for repayment plans made after the date of the enactment of this Act.

(2) LIMITATION ON RECOUPMENT.—Section 1893(f)(2) of the Social Security Act, as added by subsection (a), shall apply to actions taken after the date of the enactment of this Act.

(3) USE OF EXTRAPOLATION.—Section 1893(f)(3) of the Social Security Act, as added by subsection (a), shall apply to statistically valid random samples initiated after the date that is 1 year after the date of the enactment of this Act.

(4) PROVISION OF SUPPORTING DOCUMENTATION.—Section 1893(f)(4) of the Social Security Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

(5) CONSENT SETTLEMENT.—Section 1893(f)(5) of the Social Security Act, as added by subsection (a), shall apply to consent settlements entered into after the date of the enactment of this Act.

(6) NOTICE OF OVERUTILIZATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish the process for notice of overutilization of billing codes under section 1893A(f)(6) of the Social Security Act, as added by subsection (a).

(7) PAYMENT AUDITS.—Section 1893A(f)(7) of the Social Security Act, as added by subsection (a), shall apply to audits initiated after the date of the enactment of this Act.

(8) STANDARD FOR ABNORMAL BILLING PATTERNS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish a standard methodology for selection of sample claims for abnormal billing patterns under section 1893(f)(8) of the Social Security Act, as added by subsection (a).

SEC. 836. PROVIDER ENROLLMENT PROCESS; RIGHT OF APPEAL.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) by adding at the end of the heading the following: ''; ENROLLMENT PROCESSES''; and

(2) by adding at the end the following new subsection:

''(j) ENROLLMENT PROCESS FOR PROVIDERS OF SERVICES AND SUPPLIERS.—

''(1) ENROLLMENT PROCESS.—

''(A) IN GENERAL.—The Secretary shall establish by regulation a process for the enrollment of providers of services and suppliers under this title.

''(B) DEADLINES.—The Secretary shall establish by regulation procedures under which there are deadlines for actions on applications for enrollment (and, if applicable, renewal of enrollment). The Secretary shall monitor the performance of medicare administrative contractors in meeting the deadlines established under this subparagraph.

''(C) CONSULTATION BEFORE CHANGING PROVIDER ENROLLMENT FORMS.—The Secretary shall consult with providers of services and suppliers before making changes in the provider enrollment forms required of such providers and suppliers to be eligible to submit claims for which payment may be made under this title.

''(2) HEARING RIGHTS IN CASES OF DENIAL OR NON-RENEWAL.—A provider of services or supplier whose application to enroll (or, if applicable, to renew enrollment) under this title is denied may have a hearing and judicial review of such denial under the procedures that apply under subsection (h)(1)(A) to a provider of services that is dissatisfied with a determination by the Secretary.''.

(b) EFFECTIVE DATES.—

(1) ENROLLMENT PROCESS.—The Secretary shall provide for the establishment of the enrollment process under section 1866(j)(1) of the Social Security Act, as added by subsection (a)(2), within 6 months after the date of the enactment of this Act.

(2) CONSULTATION.—Section 1866(j)(1)(C) of the Social Security Act, as added by subsection (a)(2), shall apply with respect to changes in provider enrollment forms made on or after January 1, 2003.

(3) HEARING RIGHTS.—Section 1866(j)(2) of the Social Security Act, as added by subsection (a)(2), shall apply to denials occurring on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary specifies.

SEC. 837. PROCESS FOR CORRECTION OF MINOR ERRORS AND OMISSIONS ON CLAIMS WITHOUT PURSUING APPEALS PROCESS.

The Secretary shall develop, in consultation with appropriate medicare contractors (as defined in section 1889(g) of the Social Security Act, as inserted by section 821(a)(1)) and representatives of providers of services and suppliers, a process whereby, in the case of minor errors or omissions (as defined by the Secretary) that are detected in the submission of claims under the programs under title XVIII of such Act, a provider of services or supplier is given an opportunity to correct such an error or omission without the need to initiate an appeal. Such process shall include the ability to resubmit corrected claims.

SEC. 838. PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES; ADVANCE BENEFICIARY NOTICES.

(a) IN GENERAL.—Section 1869 (42 U.S.C. 1395ff(b)), as amended by sections 521 and 522 of BIPA and section 833(d)(2)(B), is further amended by adding at the end the following new subsection:

''(h) PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES.—

''(1) ESTABLISHMENT OF PROCESS.—

''(A) IN GENERAL.—With respect to a medicare administrative contractor that has a contract under section 1874A that provides for making payments under this title with respect to eligible items and services described in subparagraph (C), the Secretary shall establish a prior determination process that meets the requirements of this subsection and that shall be applied by such contractor in the case of eligible requesters.

''(B) ELIGIBLE REQUESTER.—For purposes of this subsection, each of the following shall be an eligible requester:

''(i) A physician, but only with respect to eligible items and services for which the physician may be paid directly.

''(ii) An individual entitled to benefits under this title, but only with respect to an item or service for which the individual receives, from the physician who may be paid directly for the item or service, an advance beneficiary notice under section 1879(a) that payment may not be made (or may no longer be made) for the item or service under this title.

''(C) ELIGIBLE ITEMS AND SERVICES.—For purposes of this subsection and subject to paragraph (2), eligible items and services are items and services which are physicians' services (as defined in paragraph (4)(A) of section 1848(f) for purposes of calculating the sustainable growth rate under such section).

''(2) SECRETARIAL FLEXIBILITY.—The Secretary shall establish by regulation reasonable limits on the categories of eligible items and services for which a prior determination of coverage may be requested under this subsection. In establishing such limits, the Secretary may consider the dollar amount involved with respect to the item or service, administrative costs and burdens, and other relevant factors.

''(3) REQUEST FOR PRIOR DETERMINATION.—

''(A) IN GENERAL.—Subject to paragraph (2), under the process established under this subsection an eligible requester may submit to the contractor a request for a determination, before the furnishing of an eligible item or service involved as to whether the item or service is covered under this title consistent with the applicable requirements of section 1862(a)(1)(A) (relating to medical necessity).

''(B) ACCOMPANYING DOCUMENTATION.—The Secretary may require that the request be accompanied by a description of the item or service, supporting documentation relating to the medical necessity for the item or service, and any other appropriate documentation. In the case of a request submitted by an eligible requester who is described in paragraph (1)(B)(ii), the Secretary may require that the request also be accompanied by a copy of the advance beneficiary notice involved.

''(4) RESPONSE TO REQUEST.—

''(A) IN GENERAL.—Under such process, the contractor shall provide the eligible requester with written notice of a determination as to whether—

''(i) the item or service is so covered;

''(ii) the item or service is not so covered; or

''(iii) the contractor lacks sufficient information to make a coverage determination.

If the contractor makes the determination described in clause (iii), the contractor shall include in the notice a description of the additional information required to make the coverage determination.

''(B) DEADLINE TO RESPOND.—Such notice shall be provided within the same time period as the time period applicable to the contractor providing notice of initial determinations on a claim for benefits under subsection (a)(2)(A).

''(C) INFORMING BENEFICIARY IN CASE OF PHYSICIAN REQUEST.—In the case of a request in which an eligible requester is not the individual described in paragraph (1)(B)(ii), the process shall provide that the individual to whom the item or service is proposed to be furnished shall be informed of any determination described in clause (ii) (relating to a determination of non-coverage) and the right (referred to in paragraph (6)(B)) to obtain the item or service and have a claim submitted for the item or service.

''(5) EFFECT OF DETERMINATIONS.—

''(A) BINDING NATURE OF POSITIVE DETERMINATION.—If the contractor makes the determination described in paragraph (4)(A)(i), such determination shall be binding on the contractor in the absence of fraud or evidence of misrepresentation of facts presented to the contractor.

''(B) NOTICE AND RIGHT TO REDETERMINATION IN CASE OF A DENIAL.—

''(i) IN GENERAL.—If the contractor makes the determination described in paragraph (4)(A)(ii)—

''(I) the eligible requester has the right to a redetermination by the contractor on the determination that the item or service is not so covered; and

''(II) the contractor shall include in notice under paragraph (4)(A) a brief explanation of the basis for the determination, including on what national or local coverage or noncoverage determination (if any) the determination is based, and the right to such a redetermination.

''(ii) DEADLINE FOR REDETERMINATIONS.—The contractor shall complete and provide notice of such redetermination within the same time period as the time period applicable to the contractor providing notice of redeterminations relating to a claim for benefits under subsection (a)(3)(C)(ii).

''(6) LIMITATION ON FURTHER REVIEW.—

''(A) IN GENERAL.—Contractor determinations described in paragraph (4)(A)(ii) or (4)(A)(iii) (and redeterminations made under paragraph (5)(B)), relating to pre-service claims are not subject to further administrative appeal or judicial review under this section or otherwise.

''(B) DECISION NOT TO SEEK PRIOR DETERMINATION OR NEGATIVE DETERMINATION DOES NOT IMPACT RIGHT TO OBTAIN SERVICES, SEEK REIMBURSEMENT, OR APPEAL RIGHTS.—Nothing in this subsection shall be construed as affecting the right of an individual who—

''(i) decides not to seek a prior determination under this subsection with respect to items or services; or

''(ii) seeks such a determination and has received a determination described in paragraph (4)(A)(ii)),

from receiving (and submitting a claim for) such items services and from obtaining administrative or judicial review respecting such claim under the other applicable provisions of this section. Failure to seek a prior determination under this subsection with respect to items and services shall not be taken into account in such administrative or judicial review.

''(C) NO PRIOR DETERMINATION AFTER RECEIPT OF SERVICES.—Once an individual is provided items and services, there shall be no prior determination under this subsection with respect to such items or services.''.

(b) EFFECTIVE DATE; TRANSITION.—

(1) EFFECTIVE DATE.—The Secretary shall establish the prior determination process

under the amendment made by subsection (a) in such a manner as to provide for the acceptance of requests for determinations under such process filed not later than 18 months after the date of the enactment of this Act.

(2) TRANSITION.—During the period in which the amendment made by subsection (a) has become effective but contracts are not provided under section 1874A of the Social Security Act with medicare administrative contractors, any reference in section 1869(g) of such Act (as added by such amendment) to such a contractor is deemed a reference to a fiscal intermediary or carrier with an agreement under section 1816, or contract under section 1842, respectively, of such Act.

(3) LIMITATION ON APPLICATION TO SGR.—For purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(D)), the amendment made by subsection (a) shall not be considered to be a change in law or regulation.

(c) PROVISIONS RELATING TO ADVANCE BENEFICIARY NOTICES; REPORT ON PRIOR DETERMINATION PROCESS.—

(1) DATA COLLECTION.—The Secretary shall establish a process for the collection of information on the instances in which an advance beneficiary notice (as defined in paragraph (4)) has been provided and on instances in which a beneficiary indicates on such a notice that the beneficiary does not intend to seek to have the item or service that is the subject of the notice furnished.

(2) OUTREACH AND EDUCATION.—The Secretary shall establish a program of outreach and education for beneficiaries and providers of services and other persons on the appropriate use of advance beneficiary notices and coverage policies under the medicare program.

(3) GAO REPORT REPORT ON USE OF ADVANCE BENEFICIARY NOTICES.—Not later than 18 months after the date on which section 1869(g) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of advance beneficiary notices under title XVIII of such Act. Such report shall include information concerning the providers of services and other persons that have provided such notices and the response of beneficiaries to such notices.

(4) GAO REPORT ON USE OF PRIOR DETERMINATION PROCESS.—Not later than 18 months after the date on which section 1869(g) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of the prior determination process under such section. Such report shall include—

(A) information concerning the types of procedures for which a prior determination has been sought, determinations made under the process, and changes in receipt of services resulting from the application of such process; and

(B) an evaluation of whether the process was useful for physicians (and other suppliers) and beneficiaries, whether it was timely, and whether the amount of information required was burdensome to physicians and beneficiaries.

(5) ADVANCE BENEFICIARY NOTICE DEFINED.—In this subsection, the term ''advance beneficiary notice'' means a written notice provided under section 1879(a) of the Social Security Act (42 U.S.C. 1395pp(a)) to an individual entitled to benefits under part A or B of title XVIII of such Act before items or services are furnished under such part in cases where a provider of services or other person that would furnish the item or service believes that payment will not be made for some or all of such items or services under such title.

Subtitle E—Miscellaneous Provisions

SEC. 841. POLICY DEVELOPMENT REGARDING EVALUATION AND MANAGEMENT (E & M) DOCUMENTATION GUIDELINES.

(a) IN GENERAL.—The Secretary may not implement any new documentation guidelines for evaluation and management physician services under the title XVIII of the Social Security Act on or after the date of the enactment of this Act unless the Secretary—

(1) has developed the guidelines in collaboration with practicing physicians (including both generalists and specialists) and provided for an assessment of the proposed guidelines by the physician community;

(2) has established a plan that contains specific goals, including a schedule, for improving the use of such guidelines;

(3) has conducted appropriate and representative pilot projects under subsection (b) to test modifications to the evaluation and management documentation guidelines;

(4) finds that the objectives described in subsection (c) will be met in the implementation of such guidelines; and

(5) has established, and is implementing, a program to educate physicians on the use of such guidelines and that includes appropriate outreach.

The Secretary shall make changes to the manner in which existing evaluation and management documentation guidelines are implemented to reduce paperwork burdens on physicians.

(b) PILOT PROJECTS TO TEST EVALUATION AND MANAGEMENT DOCUMENTATION GUIDELINES.—

(1) IN GENERAL.—The Secretary shall conduct under this subsection appropriate and representative pilot projects to test new evaluation and management documentation guidelines referred to in subsection (a).

(2) LENGTH AND CONSULTATION.—Each pilot project under this subsection shall—

(A) be voluntary;

(B) be of sufficient length as determined by the Secretary to allow for preparatory physician and medicare contractor education, analysis, and use and assessment of potential evaluation and management guidelines; and

(C) be conducted, in development and throughout the planning and operational stages of the project, in consultation with practicing physicians (including both generalists and specialists).

(3) RANGE OF PILOT PROJECTS.—Of the pilot projects conducted under this subsection—

(A) at least one shall focus on a peer review method by physicians (not employed by a medicare contractor) which evaluates medical record information for claims submitted by physicians identified as statistical outliers relative to definitions published in the Current Procedures Terminology (CPT) code book of the American Medical Association;

(B) at least one shall focus on an alternative method to detailed guidelines based on physician documentation of face to face encounter time with a patient;

(C) at least one shall be conducted for services furnished in a rural area and at least one for services furnished outside such an area; and

(D) at least one shall be conducted in a setting where physicians bill under physicians' services in teaching settings and at least one shall be conducted in a setting other than a teaching setting.

(4) BANNING OF TARGETING OF PILOT PROJECT PARTICIPANTS.—Data collected under this subsection shall not be used as the basis for overpayment demands or post-payment audits. Such limitation applies only to claims filed as part of the pilot project and lasts only for the duration of the pilot project and only as long as the provider is a participant in the pilot project.

(5) STUDY OF IMPACT.—Each pilot project shall examine the effect of the new evaluation and management documentation guidelines on—

(A) different types of physician practices, including those with fewer than 10 full-time-equivalent employees (including physicians); and

(B) the costs of physician compliance, including education, implementation, auditing, and monitoring.

(6) PERIODIC REPORTS.—The Secretary shall submit to Congress periodic reports on the pilot projects under this subsection.

(c) OBJECTIVES FOR EVALUATION AND MANAGEMENT GUIDELINES.—The objectives for modified evaluation and management documentation guidelines developed by the Secretary shall be to—

(1) identify clinically relevant documentation needed to code accurately and assess coding levels accurately;

(2) decrease the level of non-clinically pertinent and burdensome documentation time and content in the physician's medical record;

(3) increase accuracy by reviewers; and

(4) educate both physicians and reviewers.

(d) STUDY OF SIMPLER, ALTERNATIVE SYSTEMS OF DOCUMENTATION FOR PHYSICIAN CLAIMS.—

(1) STUDY.—The Secretary shall carry out a study of the matters described in paragraph (2).

(2) MATTERS DESCRIBED.—The matters referred to in paragraph (1) are—

(A) the development of a simpler, alternative system of requirements for documentation accompanying claims for evaluation and management physician services for which payment is made under title XVIII of the Social Security Act; and

(B) consideration of systems other than current coding and documentation requirements for payment for such physician services.

(3) CONSULTATION WITH PRACTICING PHYSICIANS.—In designing and carrying out the study under paragraph (1), the Secretary shall consult with practicing physicians, including physicians who are part of group practices and including both generalists and specialists.

(4) APPLICATION OF HIPAA UNIFORM CODING REQUIREMENTS.—In developing an alternative system under paragraph (2), the Secretary shall consider requirements of administrative simplification under part C of title XI of the Social Security Act.

(5) REPORT TO CONGRESS.—(A) Not later than October 1, 2004, the Secretary shall submit to Congress a report on the results of the study conducted under paragraph (1).

(B) The Medicare Payment Advisory Commission shall conduct an analysis of the results of the study included in the report under subparagraph (A) and shall submit a report on such analysis to Congress.

(e) STUDY ON APPROPRIATE CODING OF CERTAIN EXTENDED OFFICE VISITS.—The Secretary shall conduct a study of the appropriateness of coding in cases of extended office visits in which there is no diagnosis made. Not later than October 1, 2004, the Secretary shall submit a report to Congress on such study and shall include recommendations on how to code appropriately for such visits in a manner that takes into account the amount of time the physician spent with the patient.

(f) DEFINITIONS.—In this section—

(1) the term ''rural area'' has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act, 42 U.S.C. 1395ww(d)(2)(D); and

(2) the term ''teaching settings'' are those settings described in section 415.150 of title 42, Code of Federal Regulations.

SEC. 842. IMPROVEMENT IN OVERSIGHT OF TECHNOLOGY AND COVERAGE.

(a) IMPROVED COORDINATION BETWEEN FDA AND CMS ON COVERAGE OF BREAKTHROUGH MEDICAL DEVICES.—

(1) IN GENERAL.—Upon request by an applicant and to the extent feasible (as determined by the Secretary), the Secretary shall, in the case of a class III medical device that is subject to premarket approval under section 515 of the Federal Food, Drug, and Cosmetic Act, ensure the sharing of appropriate information from the review for application for premarket approval conducted by the Food and Drug Administration for coverage decisions under title XVIII of the Social Security Act.

(2) PUBLICATION OF PLAN.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to appropriate Committees of Congress a report that contains the plan for improving such coordination and for shortening the time lag between the premarket approval by the Food and Drug Administration and coding and coverage decisions by the Centers for Medicare & Medicaid Services.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as changing the criteria for coverage of a medical device under title XVIII of the Social Security Act nor premarket approval by the Food and Drug Administration and nothing in this subsection shall be construed to increase premarket approval application requirements under the Federal Food, Drug, and Cosmetic Act.

(b) COUNCIL FOR TECHNOLOGY AND INNOVATION.—Section 1868 (42 U.S.C. 1395ee), as amended by section 821(a), is amended by adding at the end the following new subsection:

''(c) COUNCIL FOR TECHNOLOGY AND INNOVATION.—

''(1) ESTABLISHMENT.—The Secretary shall establish a Council for Technology and Innovation within the Centers for Medicare & Medicaid Services (in this section referred to as 'CMS').

''(2) COMPOSITION.—The Council shall be composed of senior CMS staff and clinicians and shall be chaired by the Executive Coordinator for Technology and Innovation (appointed or designated under paragraph (4)).

''(3) DUTIES.—The Council shall coordinate the activities of coverage, coding, and payment processes under this title with respect to new technologies and procedures, including new drug therapies, and shall coordinate the exchange of information on new technologies between CMS and other entities that make similar decisions.

''(4) EXECUTIVE COORDINATOR FOR TECHNOLOGY AND INNOVATION.—The Secretary shall appoint (or designate) a noncareer appointee (as defined in section 3132(a)(7) of title 5, United States Code) who shall serve as the Executive Coordinator for Technology and Innovation. Such executive coordinator shall report to the Administrator of CMS, shall chair the Council, shall oversee the execution of its duties, and shall serve as a single point of contact for outside groups and entities regarding the coverage, coding, and payment processes under this title.''.

(c) GAO STUDY ON IMPROVEMENTS IN EXTERNAL DATA COLLECTION FOR USE IN THE MEDICARE INPATIENT PAYMENT SYSTEM.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study that analyzes which external data can be collected in a shorter time frame by the Centers for Medicare & Medicaid Services for use in computing payments for inpatient hospital services. The study may include an evaluation of the feasibility and appropriateness of using of quarterly samples or special surveys or any other methods. The study shall include an analysis of whether other executive agencies, such as the Bureau of Labor Statistics in the Department of Commerce, are best suited to collect this information.

(2) REPORT.—By not later than October 1, 2003, the Comptroller General shall submit a report to Congress on the study under paragraph (1).

(d) IOM STUDY ON LOCAL COVERAGE DETERMINATIONS.—

(1) STUDY.—The Secretary shall enter into an arrangement with the Institute of Medicine of the National Academy of Sciences under which the Institute shall conduct a study on local coverage determinations (including the application of local medical review policies) under the medicare program under title XVIII of the Social Security Act. Such study shall examine—

(A) the consistency of the definitions used in such determinations;

(B) the types of evidence on which such determinations are based, including medical and scientific evidence;

(C) the advantages and disadvantages of local coverage decisionmaking, including the flexibility it offers for ensuring timely patient access to new medical technology for which data are still be collected;

(D) the manner in which the local coverage determination process is used to develop data needed for a national coverage determination, including the need for collection of such data within a protocol and informed consent by individuals entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both; and

(E) the advantages and disadvantages of maintaining local medicare contractor advisory committees that can advise on local coverage decisions based on an open, collaborative public process.

(2) REPORT.—Such arrangement shall provide that the Institute shall submit to the Secretary a report on such study by not later than 3 years after the date of the enactment of this Act. The Secretary shall promptly transmit a copy of such report to Congress.

(e) METHODS FOR DETERMINING PAYMENT BASIS FOR NEW LAB TESTS.—Section 1833(h) (42 U.S.C. 1395l(h)) is amended by adding at the end the following:

''(8)(A) The Secretary shall establish by regulation procedures for determining the basis for, and amount of, payment under this subsection for any clinical diagnostic laboratory test with respect to which a new or substantially revised HCPCS code is assigned on or after January 1, 2004 (in this paragraph referred to as 'new tests').

''(B) Determinations under subparagraph (A) shall be made only after the Secretary—

''(i) makes available to the public (through an Internet site and other appropriate mechanisms) a list that includes any such test for which establishment of a payment amount under this subsection is being considered for a year;

''(ii) on the same day such list is made available, causes to have published in the Federal Register notice of a meeting to receive comments and recommendations (and data on which recommendations are based) from the public on the appropriate basis under this subsection for establishing payment amounts for the tests on such list;

''(iii) not less than 30 days after publication of such notice convenes a meeting, that includes representatives of officials of the Centers for Medicare & Medicaid Services involved in determining payment amounts, to receive such comments and recommendations (and data on which the recommendations are based);

''(iv) taking into account the comments and recommendations (and accompanying data) received at such meeting, develops and makes available to the public (through an Internet site and other appropriate mechanisms) a list of proposed determinations with respect to the appropriate basis for establishing a payment amount under this subsection for each such code, together with an explanation of the reasons for each such determination, the data on which the determinations are based, and a request for public written comments on the proposed determination; and

''(v) taking into account the comments received during the public comment period, develops and makes available to the public (through an Internet site and other appropriate mechanisms) a list of final determinations of the payment amounts for such tests under this subsection, together with the rationale for each such determination, the data on which the determinations are based, and responses to comments and suggestions received from the public.

''(C) Under the procedures established pursuant to subparagraph (A), the Secretary shall—

''(i) set forth the criteria for making determinations under subparagraph (A); and

''(ii) make available to the public the data (other than proprietary data) considered in making such determinations.

''(D) The Secretary may convene such further public meetings to receive public comments on payment amounts for new tests under this subsection as the Secretary deems appropriate.

''(E) For purposes of this paragraph:

''(i) The term 'HCPCS' refers to the Health Care Procedure Coding System.

''(ii) A code shall be considered to be 'substantially revised' if there is a substantive change to the definition of the test or procedure to which the code applies (such as a new analyte or a new methodology for measuring an existing analyte-specific test).''.

SEC. 843. TREATMENT OF HOSPITALS FOR CERTAIN SERVICES UNDER MEDICARE SECONDARY PAYOR (MSP) PROVISIONS.

(a) IN GENERAL.—The Secretary shall not require a hospital (including a critical access hospital) to ask questions (or obtain information) relating to the application of section 1862(b) of the Social Security Act (relating to medicare secondary payor provisions) in the case of reference laboratory services described in subsection (b), if the Secretary does not impose such requirement in the case of such services furnished by an independent laboratory.

(b) REFERENCE LABORATORY SERVICES DESCRIBED.—Reference laboratory services described in this subsection are clinical laboratory diagnostic tests (or the interpretation of such tests, or both) furnished without a face-to-face encounter between the individual entitled to benefits under part A or enrolled under part B, or both, and the hospital involved and in which the hospital submits a claim only for such test or interpretation.

SEC. 844. EMTALA IMPROVEMENTS.

(a) PAYMENT FOR EMTALA-MANDATED SCREENING AND STABILIZATION SERVICES.—

(1) IN GENERAL.—Section 1862 (42 U.S.C. 1395y) is amended by inserting after subsection (c) the following new subsection:

''(d) For purposes of subsection (a)(1)(A), in the case of any item or service that is required to be provided pursuant to section 1867 to an individual who is entitled to benefits under this title, determinations as to whether the item or service is reasonable and necessary shall be made on the basis of the information available to the treating physician or practitioner (including the patient's presenting symptoms or complaint)

at the time the item or service was ordered or furnished by the physician or practitioner (and not on the patient's principal diagnosis). When making such determinations with respect to such an item or service, the Secretary shall not consider the frequency with which the item or service was provided to the patient before or after the time of the admission or visit.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items and services furnished on or after January 1, 2003.

(b) NOTIFICATION OF PROVIDERS WHEN EMTALA INVESTIGATION CLOSED.—Section 1867(d) (42 U.S.C. 42 U.S.C. 1395dd(d)) is amended by adding at the end the following new paragraph:

''(4) NOTICE UPON CLOSING AN INVESTIGATION.—The Secretary shall establish a procedure to notify hospitals and physicians when an investigation under this section is closed.''.

(c) PRIOR REVIEW BY PEER REVIEW ORGANIZATIONS IN EMTALA CASES INVOLVING TERMINATION OF PARTICIPATION.—

(1) IN GENERAL.—Section 1867(d)(3) (42 U.S.C. 1395dd(d)(3)) is amended—

(A) in the first sentence, by inserting ''or in terminating a hospital's participation under this title'' after ''in imposing sanctions under paragraph (1)''; and

(B) by adding at the end the following new sentences: ''Except in the case in which a delay would jeopardize the health or safety of individuals, the Secretary shall also request such a review before making a compliance determination as part of the process of terminating a hospital's participation under this title for violations related to the appropriateness of a medical screening examination, stabilizing treatment, or an appropriate transfer as required by this section, and shall provide a period of 5 days for such review. The Secretary shall provide a copy of the report on the organization's report to the hospital or physician consistent with confidentiality requirements imposed on the organization under such part B.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to terminations of participation initiated on or after the date of the enactment of this Act.

SEC. 845. EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT (EMTALA) TECHNICAL ADVISORY GROUP.

(a) ESTABLISHMENT.—The Secretary shall establish a Technical Advisory Group (in this section referred to as the ''Advisory Group'') to review issues related to the Emergency Medical Treatment and Active Labor Act (EMTALA) and its implementation. In this section, the term ''EMTALA'' refers to the provisions of section 1867 of the Social Security Act (42 U.S.C. 1395dd).

(b) MEMBERSHIP.—The Advisory Group shall be composed of 19 members, including the Administrator of the Centers for Medicare & Medicaid Services and the Inspector General of the Department of Health and Human Services and of which—

(1) 4 shall be representatives of hospitals, including at least one public hospital, that have experience with the application of EMTALA and at least 2 of which have not been cited for EMTALA violations;

(2) 7 shall be practicing physicians drawn from the fields of emergency medicine, cardiology or cardiothoracic surgery, orthopedic surgery, neurosurgery, obstetrics-gynecology, and psychiatry, with not more than one physician from any particular field;

(3) 2 shall represent patients;

(4) 2 shall be staff involved in EMTALA investigations from different regional offices of the Centers for Medicare & Medicaid Services; and

(5) 1 shall be from a State survey office involved in EMTALA investigations and 1 shall be from a peer review organization, both of whom shall be from areas other than the regions represented under paragraph (4).

In selecting members described in paragraphs (1) through (3), the Secretary shall consider qualified individuals nominated by organizations representing providers and patients.

(c) GENERAL RESPONSIBILITIES.—The Advisory Group—

(1) shall review EMTALA regulations;

(2) may provide advice and recommendations to the Secretary with respect to those regulations and their application to hospitals and physicians;

(3) shall solicit comments and recommendations from hospitals, physicians, and the public regarding the implementation of such regulations; and

(4) may disseminate information on the application of such regulations to hospitals, physicians, and the public.

(d) ADMINISTRATIVE MATTERS.—

(1) CHAIRPERSON.—The members of the Advisory Group shall elect a member to serve as chairperson of the Advisory Group for the life of the Advisory Group.

(2) MEETINGS.—The Advisory Group shall first meet at the direction of the Secretary. The Advisory Group shall then meet twice per year and at such other times as the Advisory Group may provide.

(e) TERMINATION.—The Advisory Group shall terminate 30 months after the date of its first meeting.

(f) WAIVER OF ADMINISTRATIVE LIMITATION.—The Secretary shall establish the Advisory Group notwithstanding any limitation that may apply to the number of advisory committees that may be established (within the Department of Health and Human Services or otherwise).

SEC. 846. AUTHORIZING USE OF ARRANGEMENTS WITH OTHER HOSPICE PROGRAMS TO PROVIDE CORE HOSPICE SERVICES IN CERTAIN CIRCUMSTANCES.

(a) IN GENERAL.—Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended by adding at the end the following new subparagraph:

''(D) In extraordinary, exigent, or other non-routine circumstances, such as unanticipated periods of high patient loads, staffing shortages due to illness or other events, or temporary travel of a patient outside a hospice program's service area, a hospice program may enter into arrangements with another hospice program for the provision by that other program of services described in paragraph (2)(A)(ii)(I). The provisions of paragraph (2)(A)(ii)(II) shall apply with respect to the services provided under such arrangements.''.

(b) CONFORMING PAYMENT PROVISION.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

''(4) In the case of hospice care provided by a hospice program under arrangements under section 1861(dd)(5)(D) made by another hospice program, the hospice program that made the arrangements shall bill and be paid for the hospice care.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to hospice care provided on or after the date of the enactment of this Act.

SEC. 847. APPLICATION OF OSHA BLOODBORNE PATHOGENS STANDARD TO CERTAIN HOSPITALS.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (R), by striking ''and'' at the end;

(B) in subparagraph (S), by striking the period at the end and inserting '', and''; and

(C) by inserting after subparagraph (S) the following new subparagraph:

''(T) in the case of hospitals that are not otherwise subject to the Occupational Safety and Health Act of 1970, to comply with the Bloodborne Pathogens standard under section 1910.1030 of title 29 of the Code of Federal Regulations (or as subsequently redesignated).''; and

(B) by adding at the end of subsection (b) the following new paragraph:

''(4)(A) A hospital that fails to comply with the requirement of subsection (a)(1)(T) (relating to the Bloodborne Pathogens standard) is subject to a civil money penalty in an amount described in subparagraph (B), but is not subject to termination of an agreement under this section.

''(B) The amount referred to in subparagraph (A) is an amount that is similar to the amount of civil penalties that may be imposed under section 17 of the Occupational Safety and Health Act of 1970 for a violation of the Bloodborne Pathogens standard referred to in subsection (a)(1)(T) by a hospital that is subject to the provisions of such Act.

''(C) A civil money penalty under this paragraph shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.''.

(b) EFFECTIVE DATE.—The amendments made by this subsection (a) shall apply to hospitals as of July 1, 2003.

SEC. 848. BIPA-RELATED TECHNICAL AMENDMENTS AND CORRECTIONS.

(a) TECHNICAL AMENDMENTS RELATING TO ADVISORY COMMITTEE UNDER BIPA SECTION 522.—(1) Subsection (i) of section 1114 (42 U.S.C. 1314)—

(A) is transferred to section 1862 and added at the end of such section; and

(B) is redesignated as subsection (j).

(2) Section 1862 (42 U.S.C. 1395y) is amended—

(A) in the last sentence of subsection (a), by striking ''established under section 1114(f)''; and

(B) in subsection (j), as so transferred and redesignated—

(i) by striking ''under subsection (f)''; and

(ii) by striking ''section 1862(a)(1)'' and inserting ''subsection (a)(1)''.

(b) TERMINOLOGY CORRECTIONS.—(1) Section 1869(c)(3)(I)(ii) (42 U.S.C. 1395ff(c)(3)(I)(ii)), as amended by section 521 of BIPA, is amended—

(A) in subclause (III), by striking ''policy'' and inserting ''determination''; and

(B) in subclause (IV), by striking ''medical review —policies'' and inserting ''coverage determinations''.

(2) Section 1852(a)(2)(C) (42 U.S.C. 1395w–22(a)(2)(C)) is amended by striking ''policy'' and ''POLICY'' and inserting ''determination'' each place it appears and ''DETERMINATION'', respectively.

(c) REFERENCE CORRECTIONS.—Section 1869(f)(4) (42 U.S.C. 1395ff(f)(4)), as added by section 522 of BIPA, is amended—

(1) in subparagraph (A)(iv), by striking ''subclause –(I), (II), or (III)'' and inserting ''clause (i), (ii), or (iii)'';

(2) in subparagraph (B), by striking ''clause (i)(IV)'' and ''clause (i)(III)'' and inserting ''subparagraph (A)(iv)'' and ''subparagraph (A)(iii)'', respectively; and

(3) in subparagraph (C), by striking ''clause (i)'', ''subclause (IV)'' and ''subparagraph (A)'' and inserting ''subparagraph (A)'', ''clause (iv)'' and ''paragraph (1)(A)'', respectively each place it appears.

(d) OTHER CORRECTIONS.—Effective as if included in the enactment of section 521(c) of BIPA, section 1154(e) (42 U.S.C. 1320c–3(e)) is amended by striking paragraph (5).

(e) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall be effective as if included in the enactment of BIPA.

SEC. 849. CONFORMING AUTHORITY TO WAIVE A PROGRAM EXCLUSION.

The first sentence of section 1128(c)(3)(B) (42 U.S.C. 1320a–7(c)(3)(B)) is amended to read as follows: ''Subject to subparagraph (G), in the case of an exclusion under subsection (a), the minimum period of exclusion shall be not less than five years, except that, upon the request of the administrator of a Federal health care program (as defined in section 1128B(f)) who determines that the exclusion would impose a hardship on individuals entitled to benefits under part A of title XVIII or enrolled under part B of such title, or both, the Secretary may waive the exclusion under subsection (a)(1), (a)(3), or (a)(4) with respect to that program in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community.''.

SEC. 850. TREATMENT OF CERTAIN DENTAL CLAIMS.

(a) IN GENERAL.—Section 1862 (42 U.S.C. 1395y) is amended by inserting after subsection (c) the following new subsection:

''(d)(1) Subject to paragraph (2), a group health plan (as defined in subsection (a)(1)(A)(v)) providing supplemental or secondary coverage to individuals also entitled to services under this title shall not require a medicare claims determination under this title for dental benefits specifically excluded under subsection (a)(12) as a condition of making a claims determination for such benefits under the group health plan.

''(2) A group health plan may require a claims determination under this title in cases involving or appearing to involve inpatient dental hospital services or dental services expressly covered under this title pursuant to actions taken by the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 60 days after the date of the enactment of this Act.

SEC. 851. ANNUAL PUBLICATION OF LIST OF NATIONAL COVERAGE DETERMINATIONS.

The Secretary shall provide, in an appropriate annual publication available to the public, a list of national coverage determinations made under title XVIII of the Social Security Act in the previous year and information on how to get more information with respect to such determinations.

TITLE IX—MEDICAID, PUBLIC HEALTH, AND OTHER HEALTH PROVISIONS

Subtitle A—Medicaid Provisions

SEC. 901. NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICAID.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Bipartisan Commission on the Future of Medicaid (in this section referred to as the ''Commission'').

(b) DUTIES OF THE COMMISSION.—The Commission shall—

(1) review and analyze the long-term financial condition of the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) identify the factors that are causing, and the consequences of, increases in costs under the medicaid program, including—

(A) the impact of these cost increases upon State budgets, funding for other State programs, and levels of State taxes necessary to fund growing expenditures under the medicaid program;

(B) the financial obligations of the Federal government arising from the Federal matching requirement for expenditures under the medicaid program; and

(C) the size and scope of the current program and how the program has evolved over time;

(3) analyze potential policies that will ensure both the financial integrity of the medicaid program and the provision of appropriate benefits under such program;

(4) make recommendations for establishing incentives and structures to promote enhanced efficiencies and ways of encouraging innovative State policies under the medicaid program;

(5) make recommendations for establishing the appropriate balance between benefits covered, payments to providers, State and Federal contributions and, where appropriate, recipient cost-sharing obligations;

(6) make recommendations on the impact of promoting increased utilization of competitive, private enterprise models to contain program cost growth, through enhanced utilization of private plans, pharmacy benefit managers, and other methods currently being used to contain private sector healthcare costs;

(7) make recommendations on the financing of prescription drug benefits currently covered under medicaid programs, including analysis of the current Federal manufacturer rebate program, its impact upon both private market prices as well as those paid by other government purchasers, recent State efforts to negotiate additional supplemental manufacturer rebates and the ability of pharmacy benefit managers to lower drug costs;

(8) review and analyze such other matters relating to the medicaid program as the Commission deems appropriate; and

(9) analyze the impact of impending demographic changes upon medicaid benefits, including long term care services, and make recommendations for how best to appropriately divide State and Federal responsibilities for funding these benefits.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 17 members, of whom—

(A) four shall be appointed by the President;

(B) six shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, of whom not more than 4 shall be of the same political party;

(C) six shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives, of whom not more than 4 shall be of the same political party; and

(D) one, who shall serve as Chairman of the Commission, appointed jointly by the President, Majority Leader of the Senate, and the Speaker of the House of Representatives.

(2) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed by not later than December 1, 2002.

(3) TERMS OF APPOINTMENT.—The term of any appointment under paragraph (1) to the Commission shall be for the life of the Commission.

(4) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(5) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(6) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy and shall not affect the power of the remaining members to execute the duties of the Commission.

(7) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(8) EXPENSES.—Each member of the Commission shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(d) STAFF AND SUPPORT SERVICES.—

(1) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The Chairman shall appoint an executive director of the Commission.

(B) COMPENSATION.—The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director considers appropriate.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(e) POWERS OF COMMISSION.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE AND OFFICE OF THE CHIEF ACTUARY OF HCFA.—

(A) The Director of the Congressional Budget Office or the Chief Actuary of the Centers for Medicare & Medicaid Services, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) REPORT.—Not later than March 1, 2004, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of only those recommendations, findings, and conclusions of the Commission.

(g) TERMINATION.—The Commission shall terminate 30 days after the date of submission of the report required in subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 to carry out this section.

SEC. 902. GAO STUDY ON MEDICAID DRUG PAYMENT SYSTEM.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the reimbursement under the medicaid program for covered outpatient drugs. Such study shall examine—

(1) the extent to which such reimbursements for a drug exceed the acquisition costs for that drug;

(2) the services and resources associated with dispensing a prescription and any additional payments available to compensate for expenses for these services and resources; and

(3) efforts undertaken by States to change the levels of such reimbursement and the price data they use in effecting such change.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a) and shall include in such report such recommendations for changes for legislative or administrative action regarding medicaid reimbursement methodologies for outpatient prescription drugs, and their application to the medicare program, as the Comptroller General deems appropriate.

Subtitle B—Internet Pharmacies

SEC. 911. FINDINGS.

The Congress finds as follows:

(1) Legitimate Internet sellers of prescription drugs can offer substantial benefits to consumers. These potential benefits include convenience, privacy, valuable information, competitive prices, and personalized services.

(2) Unlawful Internet sellers of prescription drugs may dispense inappropriate, contaminated, counterfeit, or subpotent prescription drugs that could put at risk the health and safety of consumers.

(3) Unlawful Internet sellers have exposed consumers to significant health risks by knowingly filling invalid prescriptions, such as prescriptions based solely on an online questionnaire, or by dispensing prescription drugs without any prescription.

(4) Consumers may have difficulty distinguishing legitimate from unlawful Internet sellers, as well as foreign from domestic Internet sellers, of prescription drugs.

SEC. 912. AMENDMENT TO FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) IN GENERAL.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 503A the following:

"SEC. 503B. INTERNET PRESCRIPTION DRUG SALES.

''(a) DEFINITIONS.—For purposes of this section:

''(1) CONSUMER.—The term 'consumer' means a person (other than an entity licensed or otherwise authorized under Federal or State law as a pharmacy or to dispense or distribute prescription drugs) that purchases or seeks to purchase prescription drugs through the Internet.

''(2) HOME PAGE.—The term 'home page' means the entry point or main web page for an Internet site.

''(3) INTERNET.—The term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio, including electronic mail.

''(4) INTERSTATE INTERNET SELLER.—

''(A) IN GENERAL.—The term 'interstate Internet seller' means a person whether in the United States or abroad, that engages in, offers to engage in, or causes the delivery or sale of a prescription drug through the Internet and has such drug delivered directly to the consumer via the Postal Service, or any private or commercial interstate carrier to a consumer in the United States who is residing in a State other than the State in which the seller's place of business is located. This definition excludes a person who only delivers a prescription drug to a consumer, such as an interstate carrier service.

''(B) EXEMPTION.—With respect to the consumer involved, the term 'interstate Internet seller' does not include a person described in subparagraph (A) whose place of business is located within 75 miles of the consumer.

''(5) LINK.—The term 'link' means either a textual or graphical marker on a web page that, when clicked on, takes the consumer to another part of the Internet, such as to another web page or a different area on the same web page, or from an electronic message to a web page.

''(6) PHARMACY.—The term 'pharmacy' means any place licensed or otherwise authorized as a pharmacy under State law.

''(7) PRESCRIBER.—The term 'prescriber' means an individual, licensed or otherwise authorized under applicable Federal and State law to issue prescriptions for prescription drugs.

''(8) PRESCRIPTION DRUG.—The term 'prescription drug' means a drug under section 503(b)(1).

''(9) VALID PRESCRIPTION.—The term 'valid prescription' means a prescription that meets the requirements of section 503(b)(1) and other applicable Federal and State law.

''(10) WEB SITE; SITE.—The terms 'web site' and 'site' mean a specific location on the Internet that is determined by Internet protocol numbers or by a domain name.

''(b) REQUIREMENTS FOR INTERSTATE INTERNET SELLERS.—

''(1) IN GENERAL.—Each interstate Internet seller shall comply with the requirements of this subsection with respect to the sale of, or the offer to sell, prescription drugs through the Internet and shall at all times display on its web site information in accordance with paragraph (2).

''(2) WEB SITE DISCLOSURE INFORMATION.—An interstate Internet seller shall post in a visible and clear manner (as determined by regulation) on the home page of its web site, or on a page directly linked to such home page—

''(A) the street address of the interstate Internet seller's place of business, and the telephone number of such place of business;

''(B) each State in which the interstate Internet seller is licensed or otherwise authorized as a pharmacy, or if the interstate Internet seller is not licensed or otherwise authorized by a State as a pharmacy, each State in which the interstate Internet seller is licensed or otherwise authorized to dispense prescription drugs, and the type of State license or authorization;

''(C) in the case of an interstate Internet seller that makes referrals to or solicits on behalf of a prescriber, the name of each prescriber, the street address of each such prescriber's place of business, the telephone number of such place of business, each State in which each such prescriber is licensed or otherwise authorized to prescribe prescription drugs, and the type of such license or authorization; and

''(D) a statement that the interstate Internet seller will dispense prescription drugs only upon a valid prescription.

''(3) DATE OF POSTING.—Information required to be posted under paragraph (2) shall be posted by an interstate Internet seller—

''(A) not later than 90 days after the effective date of this section if the web site of such seller is in operation as of such date; or

''(B) on the date of the first day of operation of such seller's web site if such site goes into operation after such date.

''(4) QUALIFYING STATEMENTS.—An interstate Internet seller shall not indicate in any manner that posting disclosure information on its web site signifies that the Federal Government has made any determination on the legitimacy of the interstate Internet seller or its business.

''(5) DISCLOSURE TO STATE LICENSING BOARDS.—An interstate Internet seller licensed or otherwise authorized to dispense prescription drugs in accordance with applicable State law shall notify each State entity that granted such licensure or authorization that it is an interstate Internet seller, the name of its business, the Internet address of its business, the street address of its place of business, and the telephone number of such place of business.

''(6) REGULATIONS.—The Secretary is authorized to promulgate such regulations as are necessary to carry out the provisions of this subsection. In issuing such regulations, the Secretary—

''(A) shall take into consideration disclosure formats used by existing interstate Internet seller certification programs; and

''(B) shall in defining the term 'place of business' include provisions providing that such place is a single location at which employees of the business perform job functions, and not a post office box or similar locale.''.

(b) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

''(bb) The failure to post information required under section 503B(b)(2) or for knowingly making a materially false statement when posting such information as required under such section or violating section 503B(b)(4).''.

SEC. 913. PUBLIC EDUCATION.

The Secretary of Health and Human Services shall engage in activities to educate the public about the dangers of purchasing prescription drugs from unlawful Internet

sources. The Secretary should educate the public about effective public and private sector consumer protection efforts, as appropriate, with input from the public and private sectors, as appropriate.

SEC. 914. STUDY REGARDING COORDINATION OF REGULATORY ACTIVITIES.

Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services, after consultation with the Attorney General, shall submit to Congress a report providing recommendations for coordinating the activities of Federal agencies regarding interstate Internet sellers that operate from foreign countries and for coordinating the activities of the Federal Government with the activities of governments of foreign countries regarding such interstate Internet sellers.

SEC. 915. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect 1 year after the date of enactment of this Act, except that the authority of the Secretary of Health and Human Services to commence the process of rulemaking is effective on the date of enactment of this Act.

Subtitle C—Promotion of Electronic Prescription

SEC. 921. PROGRAM OF GRANTS TO HEALTH CARE PROVIDERS TO IMPLEMENT ELECTRONIC PRESCRIPTION DRUG PROGRAMS.

Part P of title III of the Public Health Service Act is amended by inserting after section 399N the following new section:

"SEC. 399O. GRANTS TO HEALTH CARE PROVIDERS TO IMPLEMENT ELECTRONIC PRESCRIPTION DRUG PROGRAMS

''(a) IN GENERAL.—The Secretary is authorized to make grants for the purpose of assisting health care providers who prescribe drugs and biologicals in implementing electronic prescription programs described in section 1860C(d)(3) of the Social Security Act.

''(b) APPLICATION.—No grant may be made under this section except pursuant to a grant application that is submitted in a time, manner, and form approved by the Secretary.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2004, such sums as may be appropriate to carry out this section.''.

Subtitle D—Treatment of Rare Diseases

SEC. 931. NIH OFFICE OF RARE DISEASES AT NATIONAL INSTITUTES OF HEALTH.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.), as amended by Public Law 107–84, is amended by inserting after section 404E the following:

''OFFICE OF RARE DISEASES

''SEC. 404F. (a) ESTABLISHMENT.—There is established within the Office of the Director of NIH an office to be known as the Office of Rare Diseases (in this section referred to as the 'Office'), which shall be headed by a Director (in this section referred to as the 'Director'), appointed by the Director of NIH.

''(b) DUTIES.—

''(1) IN GENERAL.—The Director of the Office shall carry out the following:

''(A) The Director shall recommend an agenda for conducting and supporting research on rare diseases through the national research institutes and centers. The agenda shall provide for a broad range of research and education activities, including scientific workshops and symposia to identify research opportunities for rare diseases.

''(B) The Director shall, with respect to rare diseases, promote coordination and cooperation among the national research institutes and centers and entities whose research is supported by such institutes.

''(C) The Director, in collaboration with the directors of the other relevant institutes and centers of the National Institutes of Health, may enter into cooperative agreements with and make grants for regional centers of excellence on rare diseases in accordance with section 404G.

''(D) The Director shall promote the sufficient allocation of the resources of the National Institutes of Health for conducting and supporting research on rare diseases.

''(E) The Director shall promote and encourage the establishment of a centralized clearinghouse for rare and genetic disease information that will provide understandable information about these diseases to the public, medical professionals, patients and families.

''(F) The Director shall biennially prepare a report that describes the research and education activities on rare diseases being conducted or supported through the national research institutes and centers, and that identifies particular projects or types of projects that should in the future be conducted or supported by the national research institutes and centers or other entities in the field of research on rare diseases.

''(G) The Director shall prepare the NIH Director's annual report to Congress on rare disease research conducted by or supported through the national research institutes and centers.

''(2) PRINCIPAL ADVISOR REGARDING ORPHAN DISEASES.—With respect to rare diseases, the Director shall serve as the principal advisor to the Director of NIH and shall provide advice to other relevant agencies. The Director shall provide liaison with national and international patient, health and scientific organizations concerned with rare diseases.

''(c) DEFINITION.—For purposes of this section, the term 'rare disease' means any disease or condition that affects less than 200,000 persons in the United States.

''(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as already have been appropriated for fiscal year 2002, and $4,000,000 for each of the fiscal years 2003 through 2006.''.

SEC. 932. RARE DISEASE REGIONAL CENTERS OF EXCELLENCE.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.), as amended by section 1021, is further amended by inserting after section 404F the following:

''RARE DISEASE REGIONAL CENTERS OF EXCELLENCE

''SEC. 404G. (a) COOPERATIVE AGREEMENTS AND GRANTS.—

''(1) IN GENERAL.—The Director of the Office of Rare Diseases (in this section referred to as the 'Director'), in collaboration with the directors of the other relevant institutes and centers of the National Institutes of Health, may enter into cooperative agreements with and make grants to public or private nonprofit entities to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for regional centers of excellence for clinical research into, training in, and demonstration of diagnostic, prevention, control, and treatment methods for rare diseases.

''(2) POLICIES.—A cooperative agreement or grant under paragraph (1) shall be entered into in accordance with policies established by the Director of NIH.

''(b) COORDINATION WITH OTHER INSTITUTES.—The Director shall coordinate the activities under this section with similar activities conducted by other national research institutes, centers and agencies of the National Institutes of Health and by the Food and Drug Administration to the extent that such institutes, centers and agencies have responsibilities that are related to rare diseases.

''(c) USES FOR FEDERAL PAYMENTS UNDER COOPERATIVE AGREEMENTS OR GRANTS.—Federal payments made under a cooperative agreement or grant under subsection (a) may be used for—

''(1) staffing, administrative, and other basic operating costs, including such patient care costs as are required for research;

''(2) clinical training, including training for allied health professionals, continuing education for health professionals and allied health professions personnel, and information programs for the public with respect to rare diseases; and

''(3) clinical research and demonstration programs.

''(d) PERIOD OF SUPPORT; ADDITIONAL PERIODS.—Support of a center under subsection (a) may be for a period of not to exceed 5 years. Such period may be extended by the Director for additional periods of not more than 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as already have been appropriated for fiscal year 2002, and $20,000,000 for each of the fiscal years 2003 through 2006.''.

Subtitle E—Other Provisions Relating to Drugs

SEC. 941. GAO STUDY REGARDING DIRECT-TO-CONSUMER ADVERTISING OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study for the purpose of determining—

(1) whether and to what extent there have been increases in utilization rates of prescription drugs that are attributable to guidance regarding direct-to-consumer advertising of such drugs that has been issued by the Food and Drug Administration under section 502(n) of the Federal Food, Drug, and Cosmetic Act; and

(2) if so, whether and to what extent such increased utilization rates have resulted in increases in the costs of public or private health plans, health insurance, or other health programs.

(b) CERTAIN DETERMINATIONS.—The study under subsection (a) shall include determinations of the following:

(1) The extent to which advertisements referred to in such subsection have resulted in effective consumer education about the prescription drugs involved, including an understanding of the risks of the drugs relative to the benefits.

(2) The extent of consumer satisfaction with such advertisements.

(3) The extent of physician satisfaction with the advertisements, including determining whether physicians believe that the advertisements interfere with the exercise of their medical judgment by influencing consumers to prefer advertised drugs over alternative therapies.

(4) The extent to which the advertisements have resulted in increases in health care costs for taxpayers, for employers, or for consumers due to consumer decisions to seek advertised drugs rather than lower-costs alternative therapies.

(5) The extent to which the advertisements have resulted in decreases in health care costs for taxpayers, for employers, or for consumers due to decreased hospitalization rates, fewer physician visits (not related to hospitalization), lower treatment costs, or reduced instances of employee absences to

care for family members with diseases or disorders.

(c) REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report providing the findings of the study under subsection (a).

SEC. 942. CERTAIN HEALTH PROFESSIONS PROGRAMS REGARDING PRACTICE OF PHARMACY.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294n et seq.) is amended by adding at the end the following subpart:

"Subpart 3—Pharmacist Workforce Programs

"SEC. 771. PUBLIC SERVICE ANNOUNCEMENTS.

''(a) PUBLIC SERVICE ANNOUNCEMENTS.—

''(1) IN GENERAL.—The Secretary shall develop and issue public service announcements that advertise and promote the pharmacist profession, highlight the advantages and rewards of being a pharmacist, and encourage individuals to enter the pharmacist profession.

''(2) METHOD.—The public service announcements described in subsection (a) shall be broadcast through appropriate media outlets, including television or radio, in a manner intended to reach as wide and diverse an audience as possible.

''(b) STATE AND LOCAL PUBLIC SERVICE ANNOUNCEMENTS.—

''(1) IN GENERAL.—The Secretary shall award grants to entities to support State and local advertising campaigns through appropriate media outlets to promote the pharmacist profession, highlight the advantages and rewards of being a pharmacist, and encourage individuals to enter the pharmacist profession.

''(2) USE OF FUNDS.—An entity that receives a grant under subsection (a) shall use funds received through such grant to acquire local television and radio time, place advertisements in local newspapers, and post information on billboards or on the Internet, in order to—

''(A) advertise and promote the pharmacist profession;

''(B) promote pharmacist education programs;

''(C) inform the public of public assistance regarding such education programs;

''(D) highlight individuals in the community that are presently practicing as pharmacists to recruit new pharmacists; and

''(E) provide any other information to recruit individuals for the pharmacist profession.

''(3) METHOD.—The campaigns described in subsection (a) shall be broadcast on television or radio, placed in newspapers as advertisements, or posted on billboards or the Internet, in a manner intended to reach as wide and diverse an audience as possible.

"SEC. 772. DEMONSTRATION PROJECT.

''(a) IN GENERAL.—The Secretary shall establish a demonstration project to enhance the participation of individuals who are pharmacists in the National Health Service Corps Loan Repayment Program described in section 338B.

''(b) SERVICES.—Services that may be provided by pharmacists pursuant to the demonstration project established under this section include medication therapy management services to assure that medications are used appropriately by patients, to enhance patients' understanding of the appropriate use of medications, to increase patients' adherence to prescription medication regimens, to reduce the risk of adverse events associated with medications, and to reduce the need for other costly medical services through better management of medication therapy. Such services may include case management, disease management, drug therapy management, patient training and education, counseling, drug therapy problem resolution, medication administration, the provision of special packaging, or other services that enhance the use of prescription medications.

''(c) PROCEDURE.—The Secretary may not provide assistance to an individual under this section unless the individual agrees to comply with all requirements described in sections 338B and 338D.

''(d) LIMITATIONS.—The demonstration project described in this section shall provide for the participation of—

''(1) individuals to provide services in rural and urban areas; and

''(2) enough individuals to allow the Secretary to properly analyze the effectiveness of such project.

''(e) DESIGNATIONS.—The demonstration project described in this section, and any pharmacists who are selected to participate in such project, shall not be considered by the Secretary in the designation of a health professional shortage area under section 332 during fiscal years 2003 through 2005.

''(f) RULE OF CONSTRUCTION.—This section shall not be construed to require any State to participate in the project described in this section.

''(g) REPORT.—The Secretary shall prepare and submit a report on the project to—

''(A) the Committee on Health, Education, Labor, and Pensions of the Senate;

''(B) the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the Senate;

''(C) the Committee on Energy and Commerce of the House of Representatives; and

''(D) the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the House of Representatives.

"SEC. 773. INFORMATION TECHNOLOGY.

''(a) GRANTS AND CONTRACTS.—The Secretary may make awards of grants or contracts to qualifying schools of pharmacy for the purpose of assisting such schools in acquiring and installing computer-based systems to provide pharmaceutical education. Education provided through such systems may be graduate education, professional education, or continuing education. The computer-based systems may be designed to provide on-site education, or education at remote sites (commonly referred to as distance learning), or both.

''(b) QUALIFYING SCHOOL OF PHARMACY.—For purposes of this section, the term 'qualifying school of pharmacy' means a school of pharmacy (as defined in section 799B) that requires students to serve in a clinical rotation in which pharmacist services are part of the curriculum.

"SEC. 774. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2006.''.

TITLE X—HEALTH-CARE RELATED TAX PROVISIONS

SEC. 1001. ELIGIBILITY FOR ARCHER MSA'S EXTENDED TO ACCOUNT HOLDERS OF MEDICARE+CHOICE MSA'S.

(a) IN GENERAL.—Subparagraph (B) of section 220(c)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

''(iii) MEDICARE+CHOICE MSA'S.—In the case of an individual who is covered under an MSA plan (as defined in section 1859(b)(3) of the Social Security Act) which such individual elected under section 1851(a)(2)(B) of such Act—

''(I) such plan shall be treated as a high deductible health plan for purposes of this section,

''(II) subsection (b)(2)(A) shall be applied by substituting '100 percent' for '65 percent' with respect to such individual,

''(III) with respect to such individual, the limitation under subsection (d)(1)(A)(ii) shall be 100 percent of the highest annual deductible limitation under section 1859(b)(3)(B) of the Social Security Act,

''(IV) paragraphs (4), (5), and (7) of subsection (b) and paragraph (1)(A)(iii) of this subsection shall not apply with respect to such individual, and

''(V) the limitation which would (but for this subclause) apply under subsection (b)(1) with respect to such individual for any taxable year shall be reduced (but not below zero) by the amount which would (but for subsection 106(b)) be includible in such individual's gross income for the taxable year.''.

(b) ACCOUNTS NOT COUNTED AGAINST NUMERICAL LIMITS.—

(1) IN GENERAL.—Paragraph (3) of section 220(j) of such Code is amended—

(A) in the heading, by striking ''PREVIOUSLY UNINSURED'' and inserting ''CERTAIN'',

(B) in subparagraph (A), by striking ''by not counting the Archer MSA of any previously uninsured individual.'' and inserting ''by not counting—

''(i) the Archer MSA of any previously uninsured individual, and

''(ii) the Archer MSA of any eligible individual who qualifies as such an individual by reason of subsection (c)(2)(B)(iii).''.

(2) REPORTING REQUIREMENT.—Subparagraph (A) of section 220(j)(4) of such Code is amended in clause (ii) by striking ''and'' at the end, in clause (iii) by striking the period and inserting '', and'', and by adding at the end the following new clause:

''(iv) the number of such accounts which are accounts of eligible individuals who qualify as such individuals by reason of subsection (c)(2)(B)(iii).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 1002. ADJUSTMENT OF EMPLOYER CONTRIBUTIONS TO COMBINED BENEFIT FUND TO REFLECT MEDICARE PRESCRIPTION DRUG SUBSIDY PAYMENTS.

Section 9704(b) of the Internal Revenue Code of 1986 (relating to health benefit premium) is amended by adding at the end the following new paragraph:

''(4) ADJUSTMENTS FOR MEDICARE PRESCRIPTION DRUG SUBSIDIES.—The trustees of the Combined Fund shall decrease the per beneficiary premium for each plan year in which a subsidy payment is provided to it under section 1860H of the Social Security Act by the amount which would place the Combined Fund in the same financial position as if such subsidy payment had not been received.''.

SEC. 1003. EXPANSION OF HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 45C(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF CERTAIN EXPENSES INCURRED BEFORE DESIGNATION.—For purposes of subparagraph (A)(ii)(I), if a drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act not later than the due date (including extensions) for filing the return of tax under this subtitle for the taxable year in which the application for such designation of such drug was filed, such drug shall be treated as having been designated on the date that such application was filed.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses incurred after the date of the enactment of this Act.

The SPEAKER pro tempore. In lieu of the amendment recommended by the Committee on Ways and Means, the amendment in the nature of a substitute printed in House Report 107–553 is adopted.

The text of the amendment in the nature of a substitute printed in House Report 107–553 is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES TO BIPA AND SECRETARY; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Modernization and Prescription Drug Act of 2002''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment 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 that section or other provision of the Social Security Act.

(c) BIPA; SECRETARY.—In this Act:

(1) BIPA.—The term ''BIPA'' means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; references to BIPA and Secretary; table of contents.

TITLE I—MEDICARE PRESCRIPTION DRUG BENEFIT

Sec. 101. Establishment of a medicare prescription drug benefit.

''PART D—VOLUNTARY PRESCRIPTION DRUG BENEFIT PROGRAM

''Sec. 1860A. Benefits; eligibility; enrollment; and coverage period.
''Sec. 1860B. Requirements for qualified prescription drug coverage.
''Sec. 1860C. Beneficiary protections for qualified prescription drug coverage.
''Sec. 1860D. Requirements for prescription drug plan (PDP) sponsors; contracts; establishment of standards.
''Sec. 1860E. Process for beneficiaries to select qualified prescription drug coverage.
''Sec. 1860F. Submission of bids and premiums.
''Sec. 1860G. Premium and cost-sharing subsidies for low-income individuals.
''Sec. 1860H. Subsidies for all medicare beneficiaries for qualified prescription drug coverage.
''Sec. 1860I. Medicare Prescription Drug Trust Fund.
''Sec. 1860J. Definitions; treatment of references to provisions in part C.

Sec. 102. Offering of qualified prescription drug coverage under the Medicare+Choice program.
Sec. 103. Medicaid amendments.
Sec. 104. Medigap transition.
Sec. 105. Medicare prescription drug discount card endorsement program.
Sec. 106. GAO study of the effectiveness of the new prescription drug program.

TITLE II—MEDICARE+CHOICE REVITALIZATION AND MEDICARE+CHOICE COMPETITION PROGRAM

Subtitle A—Medicare+Choice Revitalization

Sec. 201. Medicare+Choice improvements.
Sec. 202. Making permanent change in Medicare+Choice reporting deadlines and annual, coordinated election period.
Sec. 203. Avoiding duplicative State regulation.
Sec. 204. Specialized Medicare+Choice plans for special needs beneficiaries.
Sec. 205. Medicare MSAs.
Sec. 206. Extension of reasonable cost and SHMO contracts.

Subtitle B—Medicare+Choice Competition Program

Sec. 211. Medicare+Choice competition program.
Sec. 212. Demonstration program for competitive-demonstration areas.
Sec. 213. Conforming amendments.

TITLE III—RURAL HEALTH CARE IMPROVEMENTS

Sec. 301. Reference to full market basket increase for sole community hospitals.
Sec. 302. Enhanced disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds.
Sec. 303. 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.
Sec. 304. More frequent update in weights used in hospital market basket.
Sec. 305. Improvements to critical access hospital program.
Sec. 306. Extension of temporary increase for home health services furnished in a rural area.
Sec. 307. Reference to 10 percent increase in payment for hospice care furnished in a frontier area and rural hospice demonstration project.
Sec. 308. Reference to priority for hospitals located in rural or small urban areas in redistribution of unused graduate medical education residencies.
Sec. 309. GAO study of geographic differences in payments for physicians' services.
Sec. 310. Providing safe harbor for certain collaborative efforts that benefit medically underserved populations.
Sec. 311. Relief for certain non-teaching hospitals.

TITLE IV—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

Sec. 401. Revision of acute care hospital payment updates.
Sec. 402. 2-year increase in level of adjustment for indirect costs of medical education (IME).
Sec. 403. Recognition of new medical technologies under inpatient hospital PPS.
Sec. 404. Phase-in of Federal rate for hospitals in Puerto Rico.
Sec. 405. Reference to provision relating to enhanced disproportionate share hospital (DSH) payments for rural hospitals and urban hospitals with fewer than 100 beds.
Sec. 406. Reference to provision relating to 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.
Sec. 407. Reference to provision for more frequent updates in the weights used in hospital market basket.
Sec. 408. Reference to provision making improvements to critical access hospital program.
Sec. 409. GAO study on improving the hospital wage index.

Subtitle B—Skilled Nursing Facility Services

Sec. 411. Payment for covered skilled nursing facility services.

Subtitle C—Hospice

Sec. 421. Coverage of hospice consultation services.
Sec. 422. 10 percent increase in payment for hospice care furnished in a frontier area.
Sec. 423. Rural hospice demonstration project.

Subtitle D—Other Provisions

Sec. 431. Demonstration project for use of recovery audit contractors for part A services.

TITLE V—PROVISIONS RELATING TO PART B

Subtitle A—Physicians' Services

Sec. 501. Revision of updates for physicians' services.
Sec. 502. Studies on access to physicians' services.
Sec. 503. MedPAC report on payment for physicians' services.
Sec. 504. 1-year extension of treatment of certain physician pathology services under medicare.
Sec. 505. Physician fee schedule wage index revision.

Subtitle B—Other Services

Sec. 511. Competitive acquisition of certain items and services.
Sec. 512. Payment for ambulance services.
Sec. 513. 2-year extension of moratorium on therapy caps; provisions relating to reports.
Sec. 514. Coverage of an initial preventive physical examination.
Sec. 515. Renal dialysis services.
Sec. 516. Improved payment for certain mammography services.
Sec. 517. Waiver of part B late enrollment penalty for certain military retirees; special enrollment period.
Sec. 518. Coverage of cholesterol and blood lipid screening.

TITLE VI—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

Sec. 601. Elimination of 15 percent reduction in payment rates under the prospective payment system.
Sec. 602. Update in home health services.
Sec. 603. OASIS Task Force; suspension of certain OASIS data collection requirements pending Task Force submittal of report.
Sec. 604. MedPAC study on medicare margins of home health agencies.
Sec. 605. Clarification of treatment of occasional absences in determining whether an individual is confined to the home.

Subtitle B—Direct Graduate Medical Education

Sec. 611. Extension of update limitation on high cost programs.
Sec. 612. Redistribution of unused resident positions.

Subtitle C—Other Provisions
Sec. 621. Modifications to Medicare Payment Advisory Commission (MedPAC).
Sec. 622. Demonstration project for disease management for certain medicare beneficiaries with diabetes.
Sec. 623. Demonstration project for medical adult day care services.
Sec. 624. Publication on final written guidance concerning prohibitions against discrimination by national origin with respect to health care services.
TITLE VII—MEDICARE BENEFITS ADMINISTRATION
Sec. 701. Establishment of Medicare Benefits Administration.
TITLE VIII—REGULATORY REDUCTION AND CONTRACTING REFORM
Subtitle A—Regulatory Reform
Sec. 801. Construction; definition of supplier.
Sec. 802. Issuance of regulations.
Sec. 803. Compliance with changes in regulations and policies.
Sec. 804. Reports and studies relating to regulatory reform.
Subtitle B—Contracting Reform
Sec. 811. Increased flexibility in medicare administration.
Sec. 812. Requirements for information security for medicare administrative contractors.
Subtitle C—Education and Outreach
Sec. 821. Provider education and technical assistance.
Sec. 822. Small provider technical assistance demonstration program.
Sec. 823. Medicare provider ombudsman; medicare beneficiary ombudsman.
Sec. 824. Beneficiary outreach demonstration program.
Subtitle D—Appeals and Recovery
Sec. 831. Transfer of responsibility for medicare appeals.
Sec. 832. Process for expedited access to review.
Sec. 833. Revisions to medicare appeals process.
Sec. 834. Prepayment review.
Sec. 835. Recovery of overpayments.
Sec. 836. Provider enrollment process; right of appeal.
Sec. 837. Process for correction of minor errors and omissions on claims without pursuing appeals process.
Sec. 838. Prior determination process for certain items and services; advance beneficiary notices.
Subtitle E—Miscellaneous Provisions
Sec. 841. Policy development regarding evaluation and management (E & M) documentation guidelines.
Sec. 842. Improvement in oversight of technology and coverage.
Sec. 843. Treatment of hospitals for certain services under medicare secondary payor (MSP) provisions.
Sec. 844. EMTALA improvements.
Sec. 845. Emergency Medical Treatment and Labor Act (EMTALA) Technical Advisory Group.
Sec. 846. Authorizing use of arrangements with other hospice programs to provide core hospice services in certain circumstances.
Sec. 847. Application of OSHA bloodborne pathogens standard to certain hospitals.
Sec. 848. BIPA-related technical amendments and corrections.
Sec. 849. Conforming authority to waive a program exclusion.
Sec. 850. Treatment of certain dental claims.
Sec. 851. Annual publication of list of national coverage determinations.
TITLE IX—MEDICAID PROVISIONS
Sec. 901. National Bipartisan Commission on the Future of Medicaid.
Sec. 902. Disproportionate share hospital (DSH) payments.
Sec. 903. Medicaid pharmacy assistance program.

TITLE I—MEDICARE PRESCRIPTION DRUG BENEFIT

SEC. 101. ESTABLISHMENT OF A MEDICARE PRESCRIPTION DRUG BENEFIT.

(a) IN GENERAL.—Title XVIII is amended—

(1) by redesignating part D as part E; and

(2) by inserting after part C the following new part:

''PART D—VOLUNTARY PRESCRIPTION DRUG BENEFIT PROGRAM

''SEC. 1860A. BENEFITS; ELIGIBILITY; ENROLLMENT; AND COVERAGE PERIOD.

''(a) PROVISION OF QUALIFIED PRESCRIPTION DRUG COVERAGE THROUGH ENROLLMENT IN PLANS.—Subject to the succeeding provisions of this part, each individual who is entitled to benefits under part A or is enrolled under part B is entitled to obtain qualified prescription drug coverage (described in section 1860B(a)) as follows:

''(1) MEDICARE+CHOICE PLAN.—If the individual is eligible to enroll in a Medicare+Choice plan that provides qualified prescription drug coverage under section 1851(j), the individual may enroll in the plan and obtain coverage through such plan.

''(2) PRESCRIPTION DRUG PLAN.—If the individual is not enrolled in a Medicare+Choice plan that provides qualified prescription drug coverage, the individual may enroll under this part in a prescription drug plan (as defined in section 1860J(a)(5)).

Such individuals shall have a choice of such plans under section 1860E(d).

''(b) GENERAL ELECTION PROCEDURES.—

''(1) IN GENERAL.—An individual eligible to make an election under subsection (a) may elect to enroll in a prescription drug plan under this part, or elect the option of qualified prescription drug coverage under a Medicare+Choice plan under part C, and to change such election only in such manner and form as may be prescribed by regulations of the Administrator of the Medicare Benefits Administration (appointed under section 1808(b)) (in this part referred to as the 'Medicare Benefits Administrator') and only during an election period prescribed in or under this subsection.

''(2) ELECTION PERIODS.—

''(A) IN GENERAL.—Except as provided in this paragraph, the election periods under this subsection shall be the same as the coverage election periods under the Medicare+Choice program under section 1851(e), including—

''(i) annual coordinated election periods; and

''(ii) special election periods.

In applying the last sentence of section 1851(e)(4) (relating to discontinuance of a Medicare+Choice election during the first year of eligibility) under this subparagraph, in the case of an election described in such section in which the individual had elected or is provided qualified prescription drug coverage at the time of such first enrollment, the individual shall be permitted to enroll in a prescription drug plan under this part at the time of the election of coverage under the original fee-for-service plan.

''(B) INITIAL ELECTION PERIODS.—

''(i) INDIVIDUALS CURRENTLY COVERED.—In the case of an individual who is entitled to benefits under part A or enrolled under part B as of November 1, 2004, there shall be an initial election period of 6 months beginning on that date.

''(ii) INDIVIDUAL COVERED IN FUTURE.—In the case of an individual who is first entitled to benefits under part A or enrolled under part B after such date, there shall be an initial election period which is the same as the initial enrollment period under section 1837(d).

''(C) ADDITIONAL SPECIAL ELECTION PERIODS.—The Administrator shall establish special election periods—

''(i) in cases of individuals who have and involuntarily lose prescription drug coverage described in subsection (c)(2)(C);

''(ii) in cases described in section 1837(h) (relating to errors in enrollment), in the same manner as such section applies to part B;

''(iii) in the case of an individual who meets such exceptional conditions (including conditions provided under section 1851(e)(4)(D)) as the Administrator may provide; and

''(iv) in cases of individuals (as determined by the Administrator) who become eligible for prescription drug assistance under title XIX under section 1935(d).

''(3) INFORMATION ON PLANS.—Information described in section 1860C(b)(1) on prescription drug plans shall be made available during open enrollment periods.

''(c) GUARANTEED ISSUE; COMMUNITY RATING; AND NONDISCRIMINATION.—

''(1) GUARANTEED ISSUE.—

''(A) IN GENERAL.—An eligible individual who is eligible to elect qualified prescription drug coverage under a prescription drug plan or Medicare+Choice plan at a time during which elections are accepted under this part with respect to the plan shall not be denied enrollment based on any health status-related factor (described in section 2702(a)(1) of the Public Health Service Act) or any other factor.

''(B) MEDICARE+CHOICE LIMITATIONS PERMITTED.—The provisions of paragraphs (2) and (3) (other than subparagraph (C)(i), relating to default enrollment) of section 1851(g) (relating to priority and limitation on termination of election) shall apply to PDP sponsors under this subsection.

''(2) COMMUNITY-RATED PREMIUM.—

''(A) IN GENERAL.—In the case of an individual who maintains (as determined under subparagraph (C)) continuous prescription drug coverage since the date the individual first qualifies to elect prescription drug coverage under this part, a PDP sponsor or Medicare+Choice organization offering a prescription drug plan or Medicare+Choice plan that provides qualified prescription drug coverage and in which the individual is enrolled may not deny, limit, or condition the coverage or provision of covered prescription drug benefits or vary or increase the premium under the plan based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act or any other factor.

''(B) LATE ENROLLMENT PENALTY.—In the case of an individual who does not maintain such continuous prescription drug coverage (as described in subparagraph (C)), a PDP sponsor or Medicare+Choice organization may (notwithstanding any provision in this title) adjust the premium otherwise applicable or impose a pre-existing condition exclusion with respect to qualified prescription drug coverage in a manner that reflects additional actuarial risk involved. Such a risk shall be established through an appropriate actuarial opinion of the type described in subparagraphs (A) through (C) of section 2103(c)(4).

''(C) CONTINUOUS PRESCRIPTION DRUG COVERAGE.—An individual is considered for purposes of this part to be maintaining continuous prescription drug coverage on and after the date the individual first qualifies to elect prescription drug coverage under this part if the individual establishes that as of such date the individual is covered under any of the following prescription drug coverage and before the date that is the last day of the 63-day period that begins on the date of termination of the particular prescription drug coverage involved (regardless of whether the individual subsequently obtains any of the following prescription drug coverage):

''(i) COVERAGE UNDER PRESCRIPTION DRUG PLAN OR MEDICARE+CHOICE PLAN.—Qualified prescription drug coverage under a prescription drug plan or under a Medicare+Choice plan.

''(ii) MEDICAID PRESCRIPTION DRUG COVERAGE.—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-inclusive Care for the Elderly (PACE) under section 1934, through a social health maintenance organization (referred to in section 4104(c) of the Balanced Budget Act of 1997), or through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of a interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

''(iii) PRESCRIPTION DRUG COVERAGE UNDER GROUP HEALTH PLAN.—Any outpatient prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan as defined in section 1860H(f)(1), but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

''(iv) PRESCRIPTION DRUG COVERAGE UNDER CERTAIN MEDIGAP POLICIES.—Coverage under a medicare supplemental policy under section 1882 that provides benefits for prescription drugs (whether or not such coverage conforms to the standards for packages of benefits under section 1882(p)(1)), but only if the policy was in effect on January 1, 2005, and if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

''(v) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

''(vi) VETERANS' COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans under chapter 17 of title 38, United States Code, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

''(D) CERTIFICATION.—For purposes of carrying out this paragraph, the certifications of the type described in sections 2701(e) of the Public Health Service Act and in section 9801(e) of the Internal Revenue Code shall also include a statement for the period of coverage of whether the individual involved had prescription drug coverage described in subparagraph (C).

''(E) DISCLOSURE.—

''(i) IN GENERAL.—Each entity that offers coverage of the type described in clause (iii), (iv), (v), or (vi) of subparagraph (C) shall provide for disclosure, consistent with standards established by the Administrator, of whether such coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

''(ii) WAIVER OF LIMITATIONS.—An individual may apply to the Administrator to waive the requirement that coverage of such type provide benefits at least equivalent to the benefits under a qualified prescription drug plan, if the individual establishes that the individual was not adequately informed that such coverage did not provide such level of benefits.

''(F) CONSTRUCTION.—Nothing in this section shall be construed as preventing the disenrollment of an individual from a prescription drug plan or a Medicare+Choice plan based on the termination of an election described in section 1851(g)(3), including for non-payment of premiums or for other reasons specified in subsection (d)(3), which takes into account a grace period described in section 1851(g)(3)(B)(i).

''(3) NONDISCRIMINATION.—A PDP sponsor offering a prescription drug plan shall not establish a service area in a manner that would discriminate based on health or economic status of potential enrollees.

''(d) EFFECTIVE DATE OF ELECTIONS.—

''(1) IN GENERAL.—Except as provided in this section, the Administrator shall provide that elections under subsection (b) take effect at the same time as the Administrator provides that similar elections under section 1851(e) take effect under section 1851(f).

''(2) NO ELECTION EFFECTIVE BEFORE 2005.—In no case shall any election take effect before January 1, 2005.

''(3) TERMINATION.—The Administrator shall provide for the termination of an election in the case of—

''(A) termination of coverage under both part A and part B; and

''(B) termination of elections described in section 1851(g)(3) (including failure to pay required premiums).

''SEC. 1860B. REQUIREMENTS FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.

''(a) REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of this part and part C, the term 'qualified prescription drug coverage' means either of the following:

''(A) STANDARD COVERAGE WITH ACCESS TO NEGOTIATED PRICES.—Standard coverage (as defined in subsection (b)) and access to negotiated prices under subsection (d).

''(B) ACTUARIALLY EQUIVALENT COVERAGE WITH ACCESS TO NEGOTIATED PRICES.—Coverage of covered outpatient drugs which meets the alternative coverage requirements of subsection (c) and access to negotiated prices under subsection (d), but only if it is approved by the Administrator, as provided under subsection (c).

''(2) PERMITTING ADDITIONAL OUTPATIENT PRESCRIPTION DRUG COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraph (B), nothing in this part shall be construed as preventing qualified prescription drug coverage from including coverage of covered outpatient drugs that exceeds the coverage required under paragraph (1), but any such additional coverage shall be limited to coverage of covered outpatient drugs.

''(B) DISAPPROVAL AUTHORITY.—The Administrator shall review the offering of qualified prescription drug coverage under this part or part C. If the Administrator finds that, in the case of a qualified prescription drug coverage under a prescription drug plan or a Medicare+Choice plan, that the organization or sponsor offering the coverage is engaged in activities intended to discourage enrollment of classes of eligible medicare beneficiaries obtaining coverage through the plan on the basis of their higher likelihood of utilizing prescription drug coverage, the Administrator may terminate the contract with the sponsor or organization under this part or part C.

''(3) APPLICATION OF SECONDARY PAYOR PROVISIONS.—The provisions of section 1852(a)(4) shall apply under this part in the same manner as they apply under part C.

''(b) STANDARD COVERAGE.—For purposes of this part, the 'standard coverage' is coverage of covered outpatient drugs (as defined in subsection (f)) that meets the following requirements:

''(1) DEDUCTIBLE.—The coverage has an annual deductible—

''(A) for 2005, that is equal to $250; or

''(B) for a subsequent year, that is equal to the amount specified under this paragraph for the previous year increased by the percentage specified in paragraph (5) for the year involved.

Any amount determined under subparagraph (B) that is not a multiple of $10 shall be rounded to the nearest multiple of $10.

''(2) LIMITS ON COST-SHARING.—

''(A) IN GENERAL.—The coverage has cost-sharing (for costs above the annual deductible specified in paragraph (1) and up to the initial coverage limit under paragraph (3)) as follows:

''(i) FIRST COPAYMENT RANGE.—For costs above the annual deductible specified in paragraph (1) and up to amount specified in subparagraph (C), the cost-sharing—

''(I) is equal to 20 percent; or

''(II) is actuarially equivalent (using processes established under subsection (e)) to an average expected payment of 20 percent of such costs.

''(ii) SECONDARY COPAYMENT RANGE.—For costs above the amount specified in subparagraph (C) and up to the initial coverage limit, the cost-sharing—

''(I) is equal to 50 percent; or

''(II) is actuarially consistent (using processes established under subsection (e)) with an average expected payment of 50 percent of such costs.

''(B) USE OF TIERED COPAYMENTS.—Nothing in this part shall be construed as preventing a PDP sponsor from applying tiered copayments, so long as such tiered copayments are consistent with subparagraph (A).

''(C) INITIAL COPAYMENT THRESHOLD.—The amount specified in this subparagraph—

''(i) for 2005, is equal to $1,000; or

''(ii) for a subsequent year, is equal to the amount specified in this subparagraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

Any amount determined under clause (ii) that is not a multiple of $10 shall be rounded to the nearest multiple of $10.

''(3) INITIAL COVERAGE LIMIT.—Subject to paragraph (4), the coverage has an initial coverage limit on the maximum costs that may be recognized for payment purposes—

''(A) for 2005, that is equal to $2,000; or

''(B) for a subsequent year, that is equal to the amount specified in this paragraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

Any amount determined under subparagraph (B) that is not a multiple of $25 shall be rounded to the nearest multiple of $25.

''(4) CATASTROPHIC PROTECTION.—

''(A) IN GENERAL.—Notwithstanding paragraph (3), the coverage provides benefits with no cost-sharing after the individual has incurred costs (as described in subparagraph (C)) for covered outpatient drugs in a year equal to the annual out-of-pocket threshold specified in subparagraph (B).

''(B) ANNUAL OUT-OF-POCKET THRESHOLD.—For purposes of this part, the 'annual out-of-pocket threshold' specified in this subparagraph—

''(i) for 2005, is equal to $3,700; or

''(ii) for a subsequent year, is equal to the amount specified in this subparagraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

Any amount determined under clause (ii) that is not a multiple of $100 shall be rounded to the nearest multiple of $100.

''(C) APPLICATION.—In applying subparagraph (A)—

''(i) incurred costs shall only include costs incurred for the annual deductible (described in paragraph (1)), cost-sharing (described in paragraph (2)), and amounts for which benefits are not provided because of the application of the initial coverage limit described in paragraph (3); and

''(ii) such costs shall be treated as incurred only if they are paid by the individual (or by another individual, such as a family member, on behalf of the individual), under section 1860G, or under title XIX and the individual (or other individual) is not reimbursed through insurance or otherwise, a group health plan, or other third-party payment arrangement for such costs.

''(5) ANNUAL PERCENTAGE INCREASE.—For purposes of this part, the annual percentage increase specified in this paragraph for a year is equal to the annual percentage increase in average per capita aggregate expenditures for covered outpatient drugs in the United States for medicare beneficiaries, as determined by the Administrator for the 12-month period ending in July of the previous year.

''(c) ALTERNATIVE COVERAGE REQUIREMENTS.—A prescription drug plan or Medicare+Choice plan may provide a different prescription drug benefit design from the standard coverage described in subsection (b) so long as the Administrator determines (based on an actuarial analysis by the Administrator) that the following requirements are met and the plan applies for, and receives, the approval of the Administrator for such benefit design:

''(1) ASSURING AT LEAST ACTUARIALLY EQUIVALENT COVERAGE.—

''(A) ASSURING EQUIVALENT VALUE OF TOTAL COVERAGE.—The actuarial value of the total coverage (as determined under subsection (e)) is at least equal to the actuarial value (as so determined) of standard coverage.

''(B) ASSURING EQUIVALENT UNSUBSIDIZED VALUE OF COVERAGE.—The unsubsidized value of the coverage is at least equal to the unsubsidized value of standard coverage. For purposes of this subparagraph, the unsubsidized value of coverage is the amount by which the actuarial value of the coverage (as determined under subsection (e)) exceeds the actuarial value of the subsidy payments under section 1860H with respect to such coverage.

''(C) ASSURING STANDARD PAYMENT FOR COSTS AT INITIAL COVERAGE LIMIT.—The coverage is designed, based upon an actuarially representative pattern of utilization (as determined under subsection (e)), to provide for the payment, with respect to costs incurred that are equal to the initial coverage limit under subsection (b)(3), of an amount equal to at least the sum of the following products:

''(i) FIRST COPAYMENT RANGE.—The product of—

''(I) the amount by which the initial copayment threshold described in subsection (b)(2)(C) exceeds the deductible described in subsection (b)(1); and

''(II) 100 percent minus the cost-sharing percentage specified in subsection (b)(2)(A)(i)(I).

''(ii) SECONDARY COPAYMENT RANGE.—The product of—

''(I) the amount by which the initial coverage limit described in subsection (b)(3) exceeds the initial copayment threshold described in subsection (b)(2)(C); and

''(II) 100 percent minus the cost-sharing percentage specified in subsection (b)(2)(A)(ii)(I).

''(2) CATASTROPHIC PROTECTION.—The coverage provides for beneficiaries the catastrophic protection described in subsection (b)(4).

''(d) ACCESS TO NEGOTIATED PRICES.—

''(1) IN GENERAL.—Under qualified prescription drug coverage offered by a PDP sponsor or a Medicare+Choice organization, the sponsor or organization shall provide beneficiaries with access to negotiated prices (including applicable discounts) used for payment for covered outpatient drugs, regardless of the fact that no benefits may be payable under the coverage with respect to such drugs because of the application of cost-sharing or an initial coverage limit (described in subsection (b)(3)). Insofar as a State elects to provide medical assistance under title XIX for a drug based on the prices negotiated by a prescription drug plan under this part, the requirements of section 1927 shall not apply to such drugs. The prices negotiated by a prescription drug plan under this part, by a Medicare+Choice plan with respect to covered outpatient drugs, or by a qualified retiree prescription drug plan (as defined in section 1860H(f)(1)) with respect to such drugs on behalf of individuals entitled to benefits under part A or enrolled under part B, shall (notwithstanding any other provision of law) not be taken into account for the purposes of establishing the best price under section 1927(c)(1)(C).

''(2) DISCLOSURE.—The PDP sponsor or Medicare+Choice organization shall disclose to the Administrator (in a manner specified by the Administrator) the extent to which discounts or rebates made available to the sponsor or organization by a manufacturer are passed through to enrollees through pharmacies and other dispensers or otherwise. The provisions of section 1927(b)(3)(D) shall apply to information disclosed to the Administrator under this paragraph in the same manner as such provisions apply to information disclosed under such section.

''(e) ACTUARIAL VALUATION; DETERMINATION OF ANNUAL PERCENTAGE INCREASES.—

''(1) PROCESSES.—For purposes of this section, the Administrator shall establish processes and methods—

''(A) for determining the actuarial valuation of prescription drug coverage, including—

''(i) an actuarial valuation of standard coverage and of the reinsurance subsidy payments under section 1860H;

''(ii) the use of generally accepted actuarial principles and methodologies; and

''(iii) applying the same methodology for determinations of alternative coverage under subsection (c) as is used with respect to determinations of standard coverage under subsection (b); and

''(B) for determining annual percentage increases described in subsection (b)(5).

''(2) USE OF OUTSIDE ACTUARIES.—Under the processes under paragraph (1)(A), PDP sponsors and Medicare+Choice organizations may use actuarial opinions certified by independent, qualified actuaries to establish actuarial values, but the Administrator shall determine whether such actuarial values meet the requirements under subsection (c)(1).

''(f) COVERED OUTPATIENT DRUGS DEFINED.—

''(1) IN GENERAL.—Except as provided in this subsection, for purposes of this part, the term 'covered outpatient drug' means—

''(A) a drug that may be dispensed only upon a prescription and that is described in subparagraph (A)(i) or (A)(ii) of section 1927(k)(2); or

''(B) a biological product described in clauses (i) through (iii) of subparagraph (B) of such section or insulin described in subparagraph (C) of such section,

and such term includes a vaccine licensed under section 351 of the Public Health Service Act and any use of a covered outpatient drug for a medically accepted indication (as defined in section 1927(k)(6)).

''(2) EXCLUSIONS.—

''(A) IN GENERAL.—Such term does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), or under section 1927(d)(3).

''(B) AVOIDANCE OF DUPLICATE COVERAGE.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered if payment for such drug is available under part A or B for an individual entitled to benefits under part A and enrolled under part B.

''(3) APPLICATION OF FORMULARY RESTRICTIONS.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered under a plan if the plan excludes the drug under a formulary and such exclusion is not successfully appealed under section 1860C(f)(2).

''(4) APPLICATION OF GENERAL EXCLUSION PROVISIONS.—A prescription drug plan or Medicare+Choice plan may exclude from qualified prescription drug coverage any covered outpatient drug—

''(A) for which payment would not be made if section 1862(a) applied to part D; or

''(B) which are not prescribed in accordance with the plan or this part.

Such exclusions are determinations subject to reconsideration and appeal pursuant to section 1860C(f).

''SEC. 1860C. BENEFICIARY PROTECTIONS FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.

''(a) GUARANTEED ISSUE, COMMUNITY-RATED PREMIUMS, ACCESS TO NEGOTIATED PRICES, AND NONDISCRIMINATION.—For provisions requiring guaranteed issue, community-rated premiums, access to negotiated prices, and nondiscrimination, see sections 1860A(c)(1), 1860A(c)(2), 1860B(d), and 1860F(b), respectively.

''(b) DISSEMINATION OF INFORMATION.—

''(1) GENERAL INFORMATION.—A PDP sponsor shall disclose, in a clear, accurate, and standardized form to each enrollee with a prescription drug plan offered by the sponsor under this part at the time of enrollment and at least annually thereafter, the information described in section 1852(c)(1) relating to such plan. Such information includes the following:

''(A) Access to covered outpatient drugs, including access through pharmacy networks.

''(B) How any formulary used by the sponsor functions, including the drugs included in the formulary.

''(C) Co-payments and deductible requirements, including the identification of the tiered or other co-payment level applicable to each drug (or class of drugs).

''(D) Grievance and appeals procedures.

Such information shall also be made available on request to prospective enrollees during annual open enrollment periods.

''(2) DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION.—Upon request of an individual

eligible to enroll under a prescription drug plan, the PDP sponsor shall provide the information described in section 1852(c)(2) (other than subparagraph (D)) to such individual.

''(3) RESPONSE TO BENEFICIARY QUESTIONS.—Each PDP sponsor offering a prescription drug plan shall have a mechanism for providing specific information to enrollees upon request. The sponsor shall make available on a timely basis, through an Internet website and in writing upon request, information on specific changes in its formulary.

''(4) CLAIMS INFORMATION.—Each PDP sponsor offering a prescription drug plan must furnish to enrolled individuals in a form easily understandable to such individuals an explanation of benefits (in accordance with section 1806(a) or in a comparable manner) and a notice of the benefits in relation to initial coverage limit and annual out-of-pocket threshold for the current year, whenever prescription drug benefits are provided under this part (except that such notice need not be provided more often than monthly).

''(c) ACCESS TO COVERED BENEFITS.—

''(1) ASSURING PHARMACY ACCESS.—

''(A) IN GENERAL.—The PDP sponsor of the prescription drug plan shall secure the participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access (as determined by the Administrator and including adequate emergency access) for enrolled beneficiaries, in accordance with standards established under section 1860D(e) that ensure such convenient access.

''(B) USE OF POINT-OF-SERVICE SYSTEM.—A PDP sponsor shall establish an optional point-of-service method of operation under which—

''(i) the plan provides access to any or all pharmacies that are not participating pharmacies in its network; and

''(ii) the plan may charge beneficiaries through adjustments in premiums and copayments any additional costs associated with the point-of-service option.

The additional copayments so charged shall not count toward the application of section 1860B(b).

''(2) USE OF STANDARDIZED TECHNOLOGY.—

''(A) IN GENERAL.—The PDP sponsor of a prescription drug plan shall issue (and reissue, as appropriate) such a card (or other technology) that may be used by an enrolled beneficiary to assure access to negotiated prices under section 1860B(d) for the purchase of prescription drugs for which coverage is not otherwise provided under the prescription drug plan.

''(B) STANDARDS.—

''(i) DEVELOPMENT.—The Administrator shall provide for the development of national standards relating to a standardized format for the card or other technology referred to in subparagraph (A). Such standards shall be compatible with standards established under part C of title XI.

''(ii) APPLICATION OF ADVISORY TASK FORCE.—The advisory task force established under subsection (d)(3)(B)(ii) shall provide recommendations to the Administrator under such subsection regarding the standards developed under clause (i).

''(3) REQUIREMENTS ON DEVELOPMENT AND APPLICATION OF FORMULARIES.—If a PDP sponsor of a prescription drug plan uses a formulary, the following requirements must be met:

''(A) PHARMACY AND THERAPEUTIC (P&T) COMMITTEE.—The sponsor must establish a pharmacy and therapeutic committee that develops and reviews the formulary. Such committee shall include at least one practicing physician and at least one practicing pharmacist both with expertise in the care of elderly or disabled persons and a majority of its members shall consist of individuals who are a practicing physician or a practicing pharmacist (or both).

''(B) FORMULARY DEVELOPMENT.—In developing and reviewing the formulary, the committee shall base clinical decisions on the strength of scientific evidence and standards of practice, including assessing peer-reviewed medical literature, such as randomized clinical trials, pharmacoeconomic studies, outcomes research data, and such other information as the committee determines to be appropriate.

''(C) INCLUSION OF DRUGS IN ALL THERAPEUTIC CATEGORIES.—The formulary must include drugs within each therapeutic category and class of covered outpatient drugs (although not necessarily for all drugs within such categories and classes).

''(D) PROVIDER EDUCATION.—The committee shall establish policies and procedures to educate and inform health care providers concerning the formulary.

''(E) NOTICE BEFORE REMOVING DRUGS FROM FORMULARY.—Any removal of a drug from a formulary shall take effect only after appropriate notice is made available to beneficiaries and physicians.

''(F) GRIEVANCES AND APPEALS RELATING TO APPLICATION OF FORMULARIES.—For provisions relating to grievances and appeals of coverage, see subsections (e) and (f).

''(d) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE; MEDICATION THERAPY MANAGEMENT PROGRAM.—

''(1) IN GENERAL.—The PDP sponsor shall have in place with respect to covered outpatient drugs—

''(A) an effective cost and drug utilization management program, including medically appropriate incentives to use generic drugs and therapeutic interchange, when appropriate;

''(B) quality assurance measures and systems to reduce medical errors and adverse drug interactions, including a medication therapy management program described in paragraph (2) and for years beginning with 2006, an electronic prescription program described in paragraph (3); and

''(C) a program to control fraud, abuse, and waste.

Nothing in this section shall be construed as impairing a PDP sponsor from applying cost management tools (including differential payments) under all methods of operation.

''(2) MEDICATION THERAPY MANAGEMENT PROGRAM.—

''(A) IN GENERAL.—A medication therapy management program described in this paragraph is a program of drug therapy management and medication administration that is designed to assure, with respect to beneficiaries with chronic diseases (such as diabetes, asthma, hypertension, and congestive heart failure) or multiple prescriptions, that covered outpatient drugs under the prescription drug plan are appropriately used to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

''(B) ELEMENTS.—Such program may include—

''(i) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means;

''(ii) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means; and

''(iii) detection of patterns of overuse and underuse of prescription drugs.

''(C) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The program shall be developed in cooperation with licensed and practicing pharmacists and physicians.

''(D) CONSIDERATIONS IN PHARMACY FEES.—The PDP sponsor of a prescription drug program shall take into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

''(3) ELECTRONIC PRESCRIPTION PROGRAM.—

''(A) IN GENERAL.—An electronic prescription drug program described in this paragraph is a program that includes at least the following components, consistent with national standards established under subparagraph (B):

''(i) ELECTRONIC TRANSMITTAL OF PRESCRIPTIONS.—Prescriptions are only received electronically, except in emergency cases and other exceptional circumstances recognized by the Administrator.

''(ii) PROVISION OF INFORMATION TO PRESCRIBING HEALTH CARE PROFESSIONAL.—The program provides, upon transmittal of a prescription by a prescribing health care professional, for transmittal by the pharmacist to the professional of information that includes—

''(I) information (to the extent available and feasible) on the drugs being prescribed for that patient and other information relating to the medical history or condition of the patient that may be relevant to the appropriate prescription for that patient;

''(II) cost-effective alternatives (if any) for the use of the drug prescribed; and

''(III) information on the drugs included in the applicable formulary.

To the extent feasible, such program shall permit the prescribing health care professional to provide (and be provided) related information on an interactive, real-time basis.

''(B) STANDARDS.—

''(i) DEVELOPMENT.—The Administrator shall provide for the development of national standards relating to the electronic prescription drug program described in subparagraph (A). Such standards shall be compatible with standards established under part C of title XI.

''(ii) ADVISORY TASK FORCE.—In developing such standards and the standards described in subsection (c)(2)(B)(i) the Administrator shall establish a task force that includes representatives of physicians, hospitals, pharmacists, and technology experts and representatives of the Departments of Veterans Affairs and Defense and other appropriate Federal agencies to provide recommendations to the Administrator on such standards, including recommendations relating to the following:

''(I) The range of available computerized prescribing software and hardware and their costs to develop and implement.

''(II) The extent to which such systems reduce medication errors and can be readily implemented by physicians and hospitals.

''(III) Efforts to develop a common software platform for computerized prescribing.

''(IV) The cost of implementing such systems in the range of hospital and physician office settings, including hardware, software, and training costs.

''(V) Implementation issues as they relate to part C of title XI, and current Federal and State prescribing laws and regulations and their impact on implementation of computerized prescribing.

''(iii) DEADLINES.—

''(I) The Administrator shall constitute the task force under clause (ii) by not later than April 1, 2003.

''(II) Such task force shall submit recommendations to Administrator by not later than January 1, 2004.

''(III) The Administrator shall develop and promulgate the national standards referred to in clause (ii) by not later than January 1, 2005.

''(C) REFERENCE TO AVAILABILITY OF GRANT FUNDS.—Grant funds are authorized under section 399O of the Public Health Service Act to provide assistance to health care providers in implementing electronic prescription drug programs.

''(4) TREATMENT OF ACCREDITATION.—Section 1852(e)(4) (relating to treatment of accreditation) shall apply to prescription drug plans under this part with respect to the following requirements, in the same manner as they apply to Medicare+Choice plans under part C with respect to the requirements described in a clause of section 1852(e)(4)(B):

''(A) Paragraph (1) (including quality assurance), including medication therapy management program under paragraph (2).

''(B) Subsection (c)(1) (relating to access to covered benefits).

''(C) Subsection (g) (relating to confidentiality and accuracy of enrollee records).

''(5) PUBLIC DISCLOSURE OF PHARMACEUTICAL PRICES FOR EQUIVALENT DRUGS.—Each PDP sponsor shall provide that each pharmacy or other dispenser that arranges for the dispensing of a covered outpatient drug shall inform the beneficiary at the time of purchase of the drug of any differential between the price of the prescribed drug to the enrollee and the price of the lowest cost generic drug covered under the plan that is therapeutically equivalent and bioequivalent.

''(e) GRIEVANCE MECHANISM, COVERAGE DETERMINATIONS, AND RECONSIDERATIONS.—

''(1) IN GENERAL.—Each PDP sponsor shall provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the sponsor provides covered benefits) and enrollees with prescription drug plans of the sponsor under this part in accordance with section 1852(f).

''(2) APPLICATION OF COVERAGE DETERMINATION AND RECONSIDERATION PROVISIONS.—A PDP sponsor shall meet the requirements of paragraphs (1) through (3) of section 1852(g) with respect to covered benefits under the prescription drug plan it offers under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

''(3) REQUEST FOR REVIEW OF TIERED FORMULARY DETERMINATIONS.—In the case of a prescription drug plan offered by a PDP sponsor that provides for tiered cost-sharing for drugs included within a formulary and provides lower cost-sharing for preferred drugs included within the formulary, an individual who is enrolled in the plan may request coverage of a nonpreferred drug under the terms applicable for preferred drugs if the prescribing physician determines that the preferred drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

''(f) APPEALS.—

''(1) IN GENERAL.—Subject to paragraph (2), a PDP sponsor shall meet the requirements of paragraphs (4) and (5) of section 1852(g) with respect to drugs not included on any formulary in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

''(2) FORMULARY DETERMINATIONS.—An individual who is enrolled in a prescription drug plan offered by a PDP sponsor may appeal to obtain coverage for a covered outpatient drug that is not on a formulary of the sponsor if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

''(g) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—A PDP sponsor shall meet the requirements of section 1852(h) with respect to enrollees under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to enrollees under part C.

''SEC. 1860D. REQUIREMENTS FOR PRESCRIPTION DRUG PLAN (PDP) SPONSORS; CONTRACTS; ESTABLISHMENT OF STANDARDS.

''(a) GENERAL REQUIREMENTS.—Each PDP sponsor of a prescription drug plan shall meet the following requirements:

''(1) LICENSURE.—Subject to subsection (c), the sponsor is organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a prescription drug plan.

''(2) ASSUMPTION OF FINANCIAL RISK FOR UNSUBSIDIZED COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraph (B) and section 1860E(d)(2), the entity assumes full financial risk on a prospective basis for qualified prescription drug coverage that it offers under a prescription drug plan and that is not covered under section 1860H.

''(B) REINSURANCE PERMITTED.—The entity may obtain insurance or make other arrangements for the cost of coverage provided to any enrolled member under this part.

''(3) SOLVENCY FOR UNLICENSED SPONSORS.—In the case of a sponsor that is not described in paragraph (1), the sponsor shall meet solvency standards established by the Administrator under subsection (d).

''(b) CONTRACT REQUIREMENTS.—

''(1) IN GENERAL.—The Administrator shall not permit the election under section 1860A of a prescription drug plan offered by a PDP sponsor under this part, and the sponsor shall not be eligible for payments under section 1860G or 1860H, unless the Administrator has entered into a contract under this subsection with the sponsor with respect to the offering of such plan. Such a contract with a sponsor may cover more than one prescription drug plan. Such contract shall provide that the sponsor agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

''(2) NEGOTIATION REGARDING TERMS AND CONDITIONS.—The Administrator shall have the same authority to negotiate the terms and conditions of prescription drug plans under this part as the Director of the Office of Personnel Management has with respect to health benefits plans under chapter 89 of title 5, United States Code. In negotiating the terms and conditions regarding premiums for which information is submitted under section 1860F(a)(2), the Administrator shall take into account the subsidy payments under section 1860H and the adjusted community rate (as defined in section 1854(f)(3)) for the benefits covered.

''(3) INCORPORATION OF CERTAIN MEDICARE+CHOICE CONTRACT REQUIREMENTS.—The following provisions of section 1857 shall apply, subject to subsection (c)(5), to contracts under this section in the same manner as they apply to contracts under section 1857(a):

''(A) MINIMUM ENROLLMENT.—Paragraphs (1) and (3) of section 1857(b).

''(B) CONTRACT PERIOD AND EFFECTIVENESS.—Paragraphs (1) through (3) and (5) of section 1857(c).

''(C) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—Section 1857(d).

''(D) ADDITIONAL CONTRACT TERMS.—Section 1857(e); except that in applying section 1857(e)(2) under this part—

''(i) such section shall be applied separately to costs relating to this part (from costs under part C);

''(ii) in no case shall the amount of the fee established under this subparagraph for a plan exceed 20 percent of the maximum amount of the fee that may be established under subparagraph (B) of such section; and

''(iii) no fees shall be applied under this subparagraph with respect to Medicare+Choice plans.

''(E) INTERMEDIATE SANCTIONS.—Section 1857(g).

''(F) PROCEDURES FOR TERMINATION.—Section 1857(h).

''(4) RULES OF APPLICATION FOR INTERMEDIATE SANCTIONS.—In applying paragraph (3)(E)—

''(A) the reference in section 1857(g)(1)(B) to section 1854 is deemed a reference to this part; and

''(B) the reference in section 1857(g)(1)(F) to section 1852(k)(2)(A)(ii) shall not be applied.

''(c) WAIVER OF CERTAIN REQUIREMENTS TO EXPAND CHOICE.—

''(1) IN GENERAL.—In the case of an entity that seeks to offer a prescription drug plan in a State, the Administrator shall waive the requirement of subsection (a)(1) that the entity be licensed in that State if the Administrator determines, based on the application and other evidence presented to the Administrator, that any of the grounds for approval of the application described in paragraph (2) has been met.

''(2) GROUNDS FOR APPROVAL.—The grounds for approval under this paragraph are the grounds for approval described in subparagraph (B), (C), and (D) of section 1855(a)(2), and also include the application by a State of any grounds other than those required under Federal law.

''(3) APPLICATION OF WAIVER PROCEDURES.—With respect to an application for a waiver (or a waiver granted) under this subsection, the provisions of subparagraphs (E), (F), and (G) of section 1855(a)(2) shall apply.

''(4) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an entity is licensed in accordance with subsection (a)(1) does not deem the entity to meet other requirements imposed under this part for a PDP sponsor.

''(5) REFERENCES TO CERTAIN PROVISIONS.—For purposes of this subsection, in applying provisions of section 1855(a)(2) under this subsection to prescription drug plans and PDP sponsors—

''(A) any reference to a waiver application under section 1855 shall be treated as a reference to a waiver application under paragraph (1); and

''(B) any reference to solvency standards shall be treated as a reference to solvency standards established under subsection (d).

''(d) SOLVENCY STANDARDS FOR NON-LICENSED SPONSORS.—

''(1) ESTABLISHMENT.—The Administrator shall establish, by not later than October 1, 2003, financial solvency and capital adequacy standards that an entity that does not meet the requirements of subsection (a)(1) must meet to qualify as a PDP sponsor under this part.

''(2) COMPLIANCE WITH STANDARDS.—Each PDP sponsor that is not licensed by a State under subsection (a)(1) and for which a waiver application has been approved under subsection (c) shall meet solvency and capital adequacy standards established under paragraph (1). The Administrator shall establish certification procedures for such PDP sponsors with respect to such solvency standards in the manner described in section 1855(c)(2).

''(e) OTHER STANDARDS.—The Administrator shall establish by regulation other standards (not described in subsection (d))

for PDP sponsors and plans consistent with, and to carry out, this part. The Administrator shall publish such regulations by October 1, 2003.

''(f) RELATION TO STATE LAWS.—

''(1) IN GENERAL.—The standards established under this part shall supersede any State law or regulation (other than State licensing laws or State laws relating to plan solvency, except as provided in subsection (d)) with respect to prescription drug plans which are offered by PDP sponsors under this part.

''(2) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to premiums paid to PDP sponsors for prescription drug plans under this part, or with respect to any payments made to such a sponsor by the Administrator under this part.

''SEC. 1860E. PROCESS FOR BENEFICIARIES TO SELECT QUALIFIED PRESCRIPTION DRUG COVERAGE.

''(a) IN GENERAL.—The Administrator shall establish a process for the selection of the prescription drug plan or Medicare+Choice plan which offer qualified prescription drug coverage through which eligible individuals elect qualified prescription drug coverage under this part.

''(b) ELEMENTS.—Such process shall include the following:

''(1) Annual, coordinated election periods, in which such individuals can change the qualifying plans through which they obtain coverage, in accordance with section 1860A(b)(2).

''(2) Active dissemination of information to promote an informed selection among qualifying plans based upon price, quality, and other features, in the manner described in (and in coordination with) section 1851(d), including the provision of annual comparative information, maintenance of a toll-free hotline, and the use of non-Federal entities.

''(3) Coordination of elections through filing with a Medicare+Choice organization or a PDP sponsor, in the manner described in (and in coordination with) section 1851(c)(2).

''(c) MEDICARE+CHOICE ENROLLEE IN PLAN OFFERING PRESCRIPTION DRUG COVERAGE MAY ONLY OBTAIN BENEFITS THROUGH THE PLAN.—An individual who is enrolled under a Medicare+Choice plan that offers qualified prescription drug coverage may only elect to receive qualified prescription drug coverage under this part through such plan.

''(d) ASSURING ACCESS TO A CHOICE OF QUALIFIED PRESCRIPTION DRUG COVERAGE.—

''(1) CHOICE OF AT LEAST TWO PLANS IN EACH AREA.—

''(A) IN GENERAL.—The Administrator shall assure that each individual who is entitled to benefits under part A or enrolled under part B and who is residing in an area in the United States has available, consistent with subparagraph (B), a choice of enrollment in at least two qualifying plans (as defined in paragraph (5)) in the area in which the individual resides, at least one of which is a prescription drug plan.

''(B) REQUIREMENT FOR DIFFERENT PLAN SPONSORS.—The requirement in subparagraph (A) is not satisfied with respect to an area if only one PDP sponsor or Medicare+Choice organization offers all the qualifying plans in the area.

''(2) GUARANTEEING ACCESS TO COVERAGE.—In order to assure access under paragraph (1) and consistent with paragraph (3), the Administrator may provide financial incentives (including partial underwriting of risk) for a PDP sponsor to expand the service area under an existing prescription drug plan to adjoining or additional areas or to establish such a plan (including offering such a plan on a regional or nationwide basis), but only so long as (and to the extent) necessary to assure the access guaranteed under paragraph (1).

''(3) LIMITATION ON AUTHORITY.—In exercising authority under this subsection, the Administrator—

''(A) shall not provide for the full underwriting of financial risk for any PDP sponsor;

''(B) shall not provide for any underwriting of financial risk for a public PDP sponsor with respect to the offering of a nationwide prescription drug plan; and

''(C) shall seek to maximize the assumption of financial risk by PDP sponsors or Medicare+Choice organizations.

''(4) REPORTS.—The Administrator shall, in each annual report to Congress under section 1808(f), include information on the exercise of authority under this subsection. The Administrator also shall include such recommendations as may be appropriate to minimize the exercise of such authority, including minimizing the assumption of financial risk.

''(5) QUALIFYING PLAN DEFINED.—For purposes of this subsection, the term 'qualifying plan' means a prescription drug plan or a Medicare+Choice plan that includes qualified prescription drug coverage.

''SEC. 1860F. SUBMISSION OF BIDS AND PREMIUMS.

''(a) SUBMISSION OF BIDS, PREMIUMS, AND RELATED INFORMATION.—

''(1) IN GENERAL.—Each PDP sponsor shall submit to the Administrator the information described in paragraph (2) in the same manner as information is submitted by a Medicare+Choice organization under section 1854(a)(1).

''(2) INFORMATION SUBMITTED.—The information described in this paragraph is the following:

''(A) COVERAGE PROVIDED.—Information on the qualified prescription drug coverage to be provided.

''(B) ACTUARIAL VALUE.—Information on the actuarial value of the coverage.

''(C) BID AND PREMIUM.—Information on the bid and the premium for the coverage, including an actuarial certification of—

''(i) the actuarial basis for such bid and premium;

''(ii) the portion of such bid and premium attributable to benefits in excess of standard coverage; and

''(iii) the reduction in such bid and premium resulting from the subsidy payments provided under section 1860H.

''(D) ADDITIONAL INFORMATION.—Such other information as the Administrator may require to carry out this part.

''(3) REVIEW OF INFORMATION AND APPROVAL OF PREMIUMS.—The Administrator shall review the information filed under paragraph (2) for the purpose of conducting negotiations under section 1860D(b)(2). The Administrator, using the information provided (including the actuarial certification under paragraph (2)(C)) shall approve the premium submitted under this subsection only if the premium accurately reflects both (A) the actuarial value of the benefits provided, and (B) the 67 percent subsidy provided under section 1860H for the standard benefit. The Administrator shall apply actuarial principles to approval of a premium under this part in a manner similar to the manner in which those principles are applied in establishing the monthly part B premium under section 1839.

''(b) UNIFORM BID AND PREMIUM.—

''(1) IN GENERAL.—The bid and premium for a prescription drug plan under this section may not vary among individuals enrolled in the plan in the same service area.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as preventing the imposition of a late enrollment penalty under section 1860A(c)(2)(B).

''(c) COLLECTION.—

''(1) BENEFICIARY'S OPTION OF PAYMENT THROUGH WITHHOLDING FROM SOCIAL SECURITY PAYMENT OR USE OF ELECTRONIC FUNDS TRANSFER MECHANISM.—In accordance with regulations, a PDP sponsor shall permit each enrollee, at the enrollee's option, to make payment of premiums under this part through withholding from benefit payments in the manner provided under section 1840 with respect to monthly premiums under section 1839 or through an electronic funds transfer mechanism (such as automatic charges of an account at a financial institution or a credit or debit card account) or otherwise. All such amounts shall be credited to the Medicare Prescription Drug Trust Fund.

''(2) OFFSETTING.—Reductions in premiums for coverage under parts A and B as a result of a selection of a Medicare+Choice plan may be used to reduce the premium otherwise imposed under paragraph (1).

''(3) PAYMENT OF PLANS.—PDP plans shall receive payment based on bid amounts in the same manner as Medicare+Choice organizations receive payment based on bid amounts under section 1853(a)(1)(A)(ii) except that such payment shall be made from the Medicare Prescription Drug Trust Fund.

''(d) ACCEPTANCE OF BENCHMARK AMOUNT AS FULL PREMIUM FOR SUBSIDIZED LOW-INCOME INDIVIDUALS IF NO STANDARD (OR EQUIVALENT) COVERAGE IN AN AREA.—

''(1) IN GENERAL.—If there is no standard prescription drug coverage (as defined in paragraph (2)) offered in an area, in the case of an individual who is eligible for a premium subsidy under section 1860G and resides in the area, the PDP sponsor of any prescription drug plan offered in the area (and any Medicare+Choice organization that offers qualified prescription drug coverage in the area) shall accept the benchmark bid amount (under section 1860G(b)(2)) as payment in full for the premium charge for qualified prescription drug coverage.

''(2) STANDARD PRESCRIPTION DRUG COVERAGE DEFINED.—For purposes of this subsection, the term 'standard prescription drug coverage' means qualified prescription drug coverage that is standard coverage or that has an actuarial value equivalent to the actuarial value for standard coverage.

''SEC. 1860G. PREMIUM AND COST-SHARING SUBSIDIES FOR LOW-INCOME INDIVIDUALS.

''(a) INCOME-RELATED SUBSIDIES FOR INDIVIDUALS WITH INCOME BELOW 175 PERCENT OF FEDERAL POVERTY LEVEL.—

''(1) FULL PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR INDIVIDUALS WITH INCOME BELOW 150 PERCENT OF FEDERAL POVERTY LEVEL.—In the case of a subsidy eligible individual (as defined in paragraph (4)) who is determined to have income that does not exceed 150 percent of the Federal poverty level, the individual is entitled under this section—

''(A) to an income-related premium subsidy equal to 100 percent of the amount described in subsection (b)(1); and

''(B) subject to subsection (c), to the substitution for the beneficiary cost-sharing described in paragraphs (1) and (2) of section 1860B(b) (up to the initial coverage limit specified in paragraph (3) of such section) of amounts that do not exceed $2 for a multiple source or generic drug (as described in section 1927(k)(7)(A)) and $5 for a non-preferred drug.

''(2) SLIDING SCALE PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR INDIVIDUALS WITH INCOME ABOVE 150, BUT BELOW 175 PERCENT, OF FEDERAL POVERTY LEVEL.—In the case of a subsidy eligible individual who is determined to have income that exceeds 150

percent, but does not exceed 175 percent, of the Federal poverty level, the individual is entitled under this section to—

''(A) an income-related premium subsidy determined on a linear sliding scale ranging from 100 percent of the amount described in subsection (b)(1) for individuals with incomes at 150 percent of such level to 0 percent of such amount for individuals with incomes at 175 percent of such level; and

''(B) subject to subsection (c), to the substitution for the beneficiary cost-sharing described in paragraphs (1) and (2) of section 1860B(b) (up to the initial coverage limit specified in paragraph (3) of such section) of amounts that do not exceed $2 for a multiple source or generic drug (as described in section 1927(k)(7)(A)) and $5 for a non-preferred drug.

''(3) CONSTRUCTION.—Nothing in this section shall be construed as preventing a PDP sponsor from reducing to 0 the cost-sharing otherwise applicable to generic drugs.

''(4) DETERMINATION OF ELIGIBILITY.—

''(A) SUBSIDY ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, subject to subparagraph (D), the term 'subsidy eligible individual' means an individual who—

''(i) is eligible to elect, and has elected, to obtain qualified prescription drug coverage under this part;

''(ii) has income below 175 percent of the Federal poverty line; and

''(iii) meets the resources requirement described in section 1905(p)(1)(C).

''(B) DETERMINATIONS.—The determination of whether an individual residing in a State is a subsidy eligible individual and the amount of such individual's income shall be determined under the State medicaid plan for the State under section 1935(a) or by the Social Security Administration. In the case of a State that does not operate such a medicaid plan (either under title XIX or under a statewide waiver granted under section 1115), such determination shall be made under arrangements made by the Administrator. There are authorized to be appropriated to the Social Security Administration such sums as may be necessary for the determination of eligibility under this subparagraph.

''(C) INCOME DETERMINATIONS.—For purposes of applying this section—

''(i) income shall be determined in the manner described in section 1905(p)(1)(B); and

''(ii) the term 'Federal poverty line' means the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

''(D) TREATMENT OF TERRITORIAL RESIDENTS.—In the case of an individual who is not a resident of the 50 States or the District of Columbia, the individual is not eligible to be a subsidy eligible individual but may be eligible for financial assistance with prescription drug expenses under section 1935(e).

''(E) TREATMENT OF CONFORMING MEDIGAP POLICIES.—For purposes of this section, the term 'qualified prescription drug coverage' includes a medicare supplemental policy described in section 1860H(b)(4).

''(5) INDEXING DOLLAR AMOUNTS.—

''(A) FOR 2006.—The dollar amounts applied under paragraphs (1)(B) and (2)(B) for 2006 shall be the dollar amounts specified in such paragraph increased by the annual percentage increase described in section 1860B(b)(5) for 2006.

''(B) FOR SUBSEQUENT YEARS.—The dollar amounts applied under paragraphs (1)(B) and (2)(B) for a year after 2006 shall be the amounts (under this paragraph) applied under paragraph (1)(B) or (2)(B) for the preceding year increased by the annual percentage increase described in section 1860B(b)(5) (relating to growth in medicare prescription drug costs per beneficiary) for the year involved.

''(b) PREMIUM SUBSIDY AMOUNT.—

''(1) IN GENERAL.—The premium subsidy amount described in this subsection for an individual residing in an area is the benchmark bid amount (as defined in paragraph (2)) for qualified prescription drug coverage offered by the prescription drug plan or the Medicare+Choice plan in which the individual is enrolled.

''(2) BENCHMARK BID AMOUNT DEFINED.—For purposes of this subsection, the term 'benchmark bid amount' means, with respect to qualified prescription drug coverage offered under—

''(A) a prescription drug plan that—

''(i) provides standard coverage (or alternative prescription drug coverage the actuarial value is equivalent to that of standard coverage), the bid amount for enrollment under the plan under this part (determined without regard to any subsidy under this section or any late enrollment penalty under section 1860A(c)(2)(B)); or

''(ii) provides alternative prescription drug coverage the actuarial value of which is greater than that of standard coverage, the bid amount described in clause (i) multiplied by the ratio of (I) the actuarial value of standard coverage, to (II) the actuarial value of the alternative coverage; or

''(B) a Medicare+Choice plan, the portion of the bid amount that is attributable to statutory drug benefits (described in section 1853(a)(1)(A)(ii)(II)).

''(c) RULES IN APPLYING COST-SHARING SUBSIDIES.—

''(1) IN GENERAL.—In applying subsections (a)(1)(B) and (a)(2)(B), nothing in this part shall be construed as preventing a plan or provider from waiving or reducing the amount of cost-sharing otherwise applicable.

''(2) LIMITATION ON CHARGES.—In the case of an individual receiving cost-sharing subsidies under subsection (a)(1)(B) or (a)(2)(B), the PDP sponsor may not charge more than $5 per prescription.

''(3) APPLICATION OF INDEXING RULES.—The provisions of subsection (a)(4) shall apply to the dollar amount specified in paragraph (2) in the same manner as they apply to the dollar amounts specified in subsections (a)(1)(B) and (a)(2)(B).

''(d) ADMINISTRATION OF SUBSIDY PROGRAM.—The Administrator shall provide a process whereby, in the case of an individual who is determined to be a subsidy eligible individual and who is enrolled in prescription drug plan or is enrolled in a Medicare+Choice plan under which qualified prescription drug coverage is provided—

''(1) the Administrator provides for a notification of the PDP sponsor or Medicare+Choice organization involved that the individual is eligible for a subsidy and the amount of the subsidy under subsection (a);

''(2) the sponsor or organization involved reduces the premiums or cost-sharing otherwise imposed by the amount of the applicable subsidy and submits to the Administrator information on the amount of such reduction; and

''(3) the Administrator periodically and on a timely basis reimburses the sponsor or organization for the amount of such reductions.

The reimbursement under paragraph (3) with respect to cost-sharing subsidies may be computed on a capitated basis, taking into account the actuarial value of the subsidies and with appropriate adjustments to reflect differences in the risks actually involved.

''(e) RELATION TO MEDICAID PROGRAM.—

''(1) IN GENERAL.—For provisions providing for eligibility determinations, and additional financing, under the medicaid program, see section 1935.

''(2) MEDICAID PROVIDING WRAP AROUND BENEFITS.—The coverage provided under this part is primary payor to benefits for prescribed drugs provided under the medicaid program under title XIX.

''(3) COORDINATION.—The Administrator shall develop and implement a plan for the coordination of prescription drug benefits under this part with the benefits provided under the medicaid program under title XIX, with particular attention to insuring coordination of payments and prevention of fraud and abuse. In developing and implementing such plan, the Administrator shall involve the Secretary, the States, the data processing industry, pharmacists, and pharmaceutical manufacturers, and other experts.

''SEC. 1860H. SUBSIDIES FOR ALL MEDICARE BENEFICIARIES FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.

''(a) SUBSIDY PAYMENT.—In order to reduce premium levels applicable to qualified prescription drug coverage for all medicare beneficiaries consistent with an overall subsidy level of 67 percent, to reduce adverse selection among prescription drug plans and Medicare+Choice plans that provide qualified prescription drug coverage, and to promote the participation of PDP sponsors under this part, the Administrator shall provide in accordance with this section for payment to a qualifying entity (as defined in subsection (b)) of the following subsidies:

''(1) DIRECT SUBSIDY.—In the case of an individual enrolled in a prescription drug plan, Medicare+Choice plan that provides qualified prescription drug coverage, or qualified retiree prescription drug plan, a direct subsidy equal to 37 percent of the total payments made by a qualifying entity for standard coverage under the respective plan.

''(2) SUBSIDY THROUGH REINSURANCE.—The reinsurance payment amount (as defined in subsection (c)), which in the aggregate is 30 percent of such total payments, for excess costs incurred in providing qualified prescription drug coverage—

''(A) for individuals enrolled with a prescription drug plan under this part;

''(B) for individuals enrolled with a Medicare+Choice plan that provides qualified prescription drug coverage; and

''(C) for individuals who are enrolled in a qualified retiree prescription drug plan.

This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Administrator to provide for the payment of amounts provided under this section.

''(b) QUALIFYING ENTITY DEFINED.—For purposes of this section, the term 'qualifying entity' means any of the following that has entered into an agreement with the Administrator to provide the Administrator with such information as may be required to carry out this section:

''(1) A PDP sponsor offering a prescription drug plan under this part.

''(2) A Medicare+Choice organization that provides qualified prescription drug coverage under a Medicare+Choice plan under part C.

''(3) The sponsor of a qualified retiree prescription drug plan (as defined in subsection (f)).

''(c) REINSURANCE PAYMENT AMOUNT.—

''(1) IN GENERAL.—Subject to subsection (d)(1)(B) and paragraph (4), the reinsurance payment amount under this subsection for a qualifying covered individual (as defined in subsection (g)(1)) for a coverage year (as defined in subsection (g)(2)) is equal to the sum of the following:

''(A) For the portion of the individual's gross covered prescription drug costs (as defined in paragraph (3)) for the year that exceeds the initial copayment threshold specified in section 1860B(b)(2)(C), but does not exceed the initial coverage limit specified in section 1860B(b)(3), an amount equal to 30 percent of the allowable costs (as defined in paragraph (2)) attributable to such gross covered prescription drug costs.

''(B) For the portion of the individual's gross covered prescription drug costs for the year that exceeds the annual out-of-pocket threshold specified in 1860B(b)(4)(B), an amount equal to 80 percent of the allowable costs attributable to such gross covered prescription drug costs.

''(2) ALLOWABLE COSTS.—For purposes of this section, the term 'allowable costs' means, with respect to gross covered prescription drug costs under a plan described in subsection (b) offered by a qualifying entity, the part of such costs that are actually paid (net of average percentage rebates) under the plan, but in no case more than the part of such costs that would have been paid under the plan if the prescription drug coverage under the plan were standard coverage.

''(3) GROSS COVERED PRESCRIPTION DRUG COSTS.—For purposes of this section, the term 'gross covered prescription drug costs' means, with respect to an enrollee with a qualifying entity under a plan described in subsection (b) during a coverage year, the costs incurred under the plan (including costs attributable to administrative costs) for covered prescription drugs dispensed during the year, including costs relating to the deductible, whether paid by the enrollee or under the plan, regardless of whether the coverage under the plan exceeds standard coverage and regardless of when the payment for such drugs is made.

''(4) INDEXING DOLLAR AMOUNTS.—

''(A) AMOUNTS FOR 2005.—The dollar amounts applied under paragraph (1) for 2005 shall be the dollar amounts specified in such paragraph.

''(B) FOR 2006.—The dollar amounts applied under paragraph (1) for 2006 shall be the dollar amounts specified in such paragraph increased by the annual percentage increase described in section 1860B(b)(5) for 2006.

''(C) FOR SUBSEQUENT YEARS.—The dollar amounts applied under paragraph (1) for a year after 2006 shall be the amounts (under this paragraph) applied under paragraph (1) for the preceding year increased by the annual percentage increase described in section 1860B(b)(5) (relating to growth in medicare prescription drug costs per beneficiary) for the year involved.

''(D) ROUNDING.—Any amount, determined under the preceding provisions of this paragraph for a year, which is not a multiple of $10 shall be rounded to the nearest multiple of $10.

''(d) ADJUSTMENT OF PAYMENTS.—

''(1) ADJUSTMENT OF REINSURANCE PAYMENTS TO ASSURE 30 PERCENT LEVEL OF SUBSIDY THROUGH REINSURANCE.—

''(A) ESTIMATION OF PAYMENTS.—The Administrator shall estimate—

''(i) the total payments to be made (without regard to this subsection) during a year under subsections (a)(2) and (c); and

''(ii) the total payments to be made by qualifying entities for standard coverage under plans described in subsection (b) during the year.

''(B) ADJUSTMENT.—The Administrator shall proportionally adjust the payments made under subsections (a)(2) and (c) for a coverage year in such manner so that the total of the payments made under such subsections for the year is equal to 30 percent of the total payments described in subparagraph (A)(ii).

''(2) RISK ADJUSTMENT FOR DIRECT SUBSIDIES.—To the extent the Administrator determines it appropriate to avoid risk selection, the payments made for direct subsidies under subsection (a)(1) are subject to adjustment based upon risk factors specified by the Administrator. Any such risk adjustment shall be designed in a manner as to not result in a change in the aggregate payments made under such subsection.

''(e) PAYMENT METHODS.—

''(1) IN GENERAL.—Payments under this section shall be based on such a method as the Administrator determines. The Administrator may establish a payment method by which interim payments of amounts under this section are made during a year based on the Administrator's best estimate of amounts that will be payable after obtaining all of the information.

''(2) SOURCE OF PAYMENTS.—Payments under this section shall be made from the Medicare Prescription Drug Trust Fund.

''(f) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN DEFINED.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified retiree prescription drug plan' means employment-based retiree health coverage (as defined in paragraph (3)(A)) if, with respect to an individual enrolled (or eligible to be enrolled) under this part who is covered under the plan, the following requirements are met:

''(A) ASSURANCE.—The sponsor of the plan shall annually attest, and provide such assurances as the Administrator may require, that the coverage meets or exceeds the requirements for qualified prescription drug coverage.

''(B) AUDITS.—The sponsor (and the plan) shall maintain, and afford the Administrator access to, such records as the Administrator may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage, and the accuracy of payments made.

''(C) PROVISION OF CERTIFICATION OF PRESCRIPTION DRUG COVERAGE.—The sponsor of the plan shall provide for issuance of certifications of the type described in section 1860A(c)(2)(D).

''(2) LIMITATION ON BENEFIT ELIGIBILITY.—No payment shall be provided under this section with respect to an individual who is enrolled under a qualified retiree prescription drug plan unless the individual is—

''(A) enrolled under this part;

''(B) is covered under the plan; and

''(C) is eligible to obtain qualified prescription drug coverage under section 1860A but did not elect such coverage under this part (either through a prescription drug plan or through a Medicare+Choice plan).

''(3) DEFINITIONS.—As used in this section:

''(A) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term 'employment-based retiree health coverage' means health insurance or other coverage of health care costs for individuals enrolled under this part (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

''(B) SPONSOR.—The term 'sponsor' means a plan sponsor, as defined in section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

''(g) GENERAL DEFINITIONS.—For purposes of this section:

''(1) QUALIFYING COVERED INDIVIDUAL.—The term 'qualifying covered individual' means an individual who—

''(A) is enrolled with a prescription drug plan under this part;

''(B) is enrolled with a Medicare+Choice plan that provides qualified prescription drug coverage under part C; or

''(C) is enrolled for benefits under this title and is covered under a qualified retiree prescription drug plan.

''(2) COVERAGE YEAR.—The term 'coverage year' means a calendar year in which covered outpatient drugs are dispensed if a claim for payment is made under the plan for such drugs, regardless of when the claim is paid.

"SEC. 1860I. MEDICARE PRESCRIPTION DRUG TRUST FUND.

''(a) IN GENERAL.—There is created on the books of the Treasury of the United States a trust fund to be known as the 'Medicare Prescription Drug Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part. Except as otherwise provided in this section, the provisions of subsections (b) through (i) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund under such section.

''(b) PAYMENTS FROM TRUST FUND.—

''(1) IN GENERAL.—The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Administrator certifies are necessary to make—

''(A) payments under section 1860G (relating to low-income subsidy payments);

''(B) payments under section 1860H (relating to subsidy payments); and

''(C) payments with respect to administrative expenses under this part in accordance with section 201(g).

''(2) TRANSFERS TO MEDICAID ACCOUNT FOR INCREASED ADMINISTRATIVE COSTS.—The Managing Trustee shall transfer from time to time from the Trust Fund to the Grants to States for Medicaid account amounts the Administrator certifies are attributable to increases in payment resulting from the application of a higher Federal matching percentage under section 1935(b).

''(c) DEPOSITS INTO TRUST FUND.—

''(1) LOW-INCOME TRANSFER.—There is hereby transferred to the Trust Fund, from amounts appropriated for Grants to States for Medicaid, amounts equivalent to the aggregate amount of the reductions in payments under section 1903(a)(1) attributable to the application of section 1935(c).

''(2) APPROPRIATIONS TO COVER GOVERNMENT CONTRIBUTIONS.—There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Trust Fund, an amount equivalent to the amount of payments made from the Trust Fund under subsection (b), reduced by the amount transferred to the Trust Fund under paragraph (1).

''(d) RELATION TO SOLVENCY REQUIREMENTS.—Any provision of law that relates to the solvency of the Trust Fund under this part shall take into account the Trust Fund and amounts receivable by, or payable from, the Trust Fund.

"SEC. 1860J. DEFINITIONS; TREATMENT OF REFERENCES TO PROVISIONS IN PART C.

''(a) DEFINITIONS.—For purposes of this part:

''(1) COVERED OUTPATIENT DRUGS.—The term 'covered outpatient drugs' is defined in section 1860B(f).

''(2) INITIAL COVERAGE LIMIT.—The term 'initial coverage limit' means such limit as established under section 1860B(b)(3), or, in the case of coverage that is not standard coverage, the comparable limit (if any) established under the coverage.

''(3) MEDICARE PRESCRIPTION DRUG TRUST FUND.—The term 'Medicare Prescription Drug Trust Fund' means the Trust Fund created under section 1860I(a).

''(4) PDP SPONSOR.—The term 'PDP sponsor' means an entity that is certified under this part as meeting the requirements and standards of this part for such a sponsor.

''(5) PRESCRIPTION DRUG PLAN.—The term 'prescription drug plan' means health benefits coverage that—

''(A) is offered under a policy, contract, or plan by a PDP sponsor pursuant to, and in accordance with, a contract between the Administrator and the sponsor under section 1860D(b);

''(B) provides qualified prescription drug coverage; and

''(C) meets the applicable requirements of the section 1860C for a prescription drug plan.

''(6) QUALIFIED PRESCRIPTION DRUG COVERAGE.—The term 'qualified prescription drug coverage' is defined in section 1860B(a).

''(7) STANDARD COVERAGE.—The term 'standard coverage' is defined in section 1860B(b).

''(b) APPLICATION OF MEDICARE+CHOICE PROVISIONS UNDER THIS PART.—For purposes of applying provisions of part C under this part with respect to a prescription drug plan and a PDP sponsor, unless otherwise provided in this part such provisions shall be applied as if—

''(1) any reference to a Medicare+Choice plan included a reference to a prescription drug plan;

''(2) any reference to a provider-sponsored organization included a reference to a PDP sponsor;

''(3) any reference to a contract under section 1857 included a reference to a contract under section 1860D(b); and

''(4) any reference to part C included a reference to this part.''.

(b) ADDITIONAL CONFORMING CHANGES.—

(1) CONFORMING REFERENCES TO PREVIOUS PART D.—Any reference in law (in effect before the date of the enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) CONFORMING AMENDMENT PERMITTING WAIVER OF COST-SHARING.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(A) by striking ''and'' at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(G) the waiver or reduction of any cost-sharing imposed under part D of title XVIII.''.

(3) SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this subtitle.

(c) STUDY ON TRANSITIONING PART B PRESCRIPTION DRUG COVERAGE.—Not later than January 1, 2004, the Medicare Benefits Administrator shall submit a report to Congress that makes recommendations regarding methods for providing benefits under part D of title XVIII of the Social Security Act for outpatient prescription drugs for which benefits are provided under part B of such title.

SEC. 102. OFFERING OF QUALIFIED PRESCRIPTION DRUG COVERAGE UNDER THE MEDICARE+CHOICE PROGRAM.

(a) IN GENERAL.—Section 1851 (42 U.S.C. 1395w–21) is amended by adding at the end the following new subsection:

''(j) AVAILABILITY OF PRESCRIPTION DRUG BENEFITS.—

''(1) OFFER OF QUALIFIED PRESCRIPTION DRUG COVERAGE.—

''(A) IN GENERAL.—A Medicare+Choice organization may not offer prescription drug coverage (other than that required under parts A and B) to an enrollee under a Medicare+Choice plan unless such drug coverage is at least qualified prescription drug coverage and unless the requirements of this subsection with respect to such coverage are met.

''(B) CONSTRUCTION.—Nothing in this subsection shall be construed as—

''(i) requiring a Medicare+Choice plan to include coverage of qualified prescription drug coverage; or

''(ii) permitting a Medicare+Choice organization from providing such coverage to an individual who has not elected such coverage under section 1860A(b).

For purposes of this part, an individual who has not elected qualified prescription drug coverage under section 1860A(b) shall be treated as being ineligible to enroll in a Medicare+Choice plan under this part that offers such coverage.

''(2) COMPLIANCE WITH ADDITIONAL BENEFICIARY PROTECTIONS.—With respect to the offering of qualified prescription drug coverage by a Medicare+Choice organization under a Medicare+Choice plan, the organization and plan shall meet the requirements of section 1860C, including requirements relating to information dissemination and grievance and appeals, in the same manner as they apply to a PDP sponsor and a prescription drug plan under part D and shall submit to the Administrator the information described in section 1860F(a)(2). The Administrator shall waive such requirements to the extent the Administrator determines that such requirements duplicate requirements otherwise applicable to the organization or plan under this part.

''(3) AVAILABILITY OF PREMIUM AND COST-SHARING SUBSIDIES FOR LOW-INCOME ENROLLEES AND DIRECT AND REINSURANCE SUBSIDY PAYMENTS FOR ORGANIZATIONS.—For provisions—

''(A) providing premium and cost-sharing subsidies to low-income individuals receiving qualified prescription drug coverage through a Medicare+Choice plan, see section 1860G; and

''(B) providing a Medicare+Choice organization with direct and insurance subsidy payments for providing qualified prescription drug coverage under this part, see section 1860H.

''(4) TRANSITION IN INITIAL ENROLLMENT PERIOD.—Notwithstanding any other provision of this part, the annual, coordinated election period under subsection (e)(3)(B) for 2005 shall be the 6-month period beginning with November 2004.

''(5) QUALIFIED PRESCRIPTION DRUG COVERAGE; STANDARD COVERAGE.—For purposes of this part, the terms 'qualified prescription drug coverage' and 'standard coverage' have the meanings given such terms in section 1860B.''.

(b) CONFORMING AMENDMENTS.—Section 1851 (42 U.S.C. 1395w–21) is amended—

(1) in subsection (a)(1)—

(A) by inserting ''(other than qualified prescription drug benefits)'' after ''benefits'';

(B) by striking the period at the end of subparagraph (B) and inserting a comma; and

(C) by adding after and below subparagraph (B) the following:

''and may elect qualified prescription drug coverage in accordance with section 1860A.''; and

(2) in subsection (g)(1), by inserting ''and section 1860A(c)(2)(B)'' after ''in this subsection''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to coverage provided on or after January 1, 2005.

SEC. 103. MEDICAID AMENDMENTS.

(a) DETERMINATIONS OF ELIGIBILITY FOR LOW-INCOME SUBSIDIES.—

(1) REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(A) by striking ''and'' at the end of paragraph (64);

(B) by striking the period at the end of paragraph (65) and inserting ''; and''; and

(C) by inserting after paragraph (65) the following new paragraph:

''(66) provide for making eligibility determinations under section 1935(a).''.

(2) NEW SECTION.—Title XIX is further amended—

(A) by redesignating section 1935 as section 1936; and

(B) by inserting after section 1934 the following new section:

''SPECIAL PROVISIONS RELATING TO MEDICARE PRESCRIPTION DRUG BENEFIT

''SEC. 1935. (a) REQUIREMENT FOR MAKING ELIGIBILITY DETERMINATIONS FOR LOW-INCOME SUBSIDIES.—As a condition of its State plan under this title under section 1902(a)(66) and receipt of any Federal financial assistance under section 1903(a), a State shall—

''(1) make determinations of eligibility for premium and cost-sharing subsidies under (and in accordance with) section 1860G;

''(2) inform the Administrator of the Medicare Benefits Administration of such determinations in cases in which such eligibility is established; and

''(3) otherwise provide such Administrator with such information as may be required to carry out part D of title XVIII (including section 1860G).

''(b) PAYMENTS FOR ADDITIONAL ADMINISTRATIVE COSTS.—

''(1) IN GENERAL.—The amounts expended by a State in carrying out subsection (a) are, subject to paragraph (2), expenditures reimbursable under the appropriate paragraph of section 1903(a); except that, notwithstanding any other provision of such section, the applicable Federal matching rates with respect to such expenditures under such section shall be increased as follows (but in no case shall the rate as so increased exceed 100 percent):

''(A) For expenditures attributable to costs incurred during 2005, the otherwise applicable Federal matching rate shall be increased by 10 percent of the percentage otherwise payable (but for this subsection) by the State.

''(B)(i) For expenditures attributable to costs incurred during 2006 and each subsequent year through 2013, the otherwise applicable Federal matching rate shall be increased by the applicable percent (as defined in clause (ii)) of the percentage otherwise payable (but for this subsection) by the State.

''(ii) For purposes of clause (i), the 'applicable percent' for—

''(I) 2006 is 20 percent; or

''(II) a subsequent year is the applicable percent under this clause for the previous year increased by 10 percentage points.

''(C) For expenditures attributable to costs incurred after 2013, the otherwise applicable Federal matching rate shall be increased to 100 percent.

''(2) COORDINATION.—The State shall provide the Administrator with such information as may be necessary to properly allocate administrative expenditures described in paragraph (1) that may otherwise be made for similar eligibility determinations.''.

(b) PHASED-IN FEDERAL ASSUMPTION OF MEDICAID RESPONSIBILITY FOR PREMIUM AND COST-SHARING SUBSIDIES FOR DUALLY ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Section 1903(a)(1) (42 U.S.C. 1396b(a)(1)) is amended by inserting

before the semicolon the following: '', reduced by the amount computed under section 1935(c)(1) for the State and the quarter''.

(2) AMOUNT DESCRIBED.—Section 1935, as inserted by subsection (a)(2), is amended by adding at the end the following new subsection:

''(c) FEDERAL ASSUMPTION OF MEDICAID PRESCRIPTION DRUG COSTS FOR DUALLY-ELIGIBLE BENEFICIARIES.—

''(1) IN GENERAL.—For purposes of section 1903(a)(1), for a State that is one of the 50 States or the District of Columbia for a calendar quarter in a year (beginning with 2005) the amount computed under this subsection is equal to the product of the following:

''(A) MEDICARE SUBSIDIES.—The total amount of payments made in the quarter under section 1860G (relating to premium and cost-sharing prescription drug subsidies for low-income medicare beneficiaries) that are attributable to individuals who are residents of the State and are entitled to benefits with respect to prescribed drugs under the State plan under this title (including such a plan operating under a waiver under section 1115).

''(B) STATE MATCHING RATE.—A proportion computed by subtracting from 100 percent the Federal medical assistance percentage (as defined in section 1905(b)) applicable to the State and the quarter.

''(C) PHASE-OUT PROPORTION.—The phase-out proportion (as defined in paragraph (2)) for the quarter.

''(2) PHASE-OUT PROPORTION.—For purposes of paragraph (1)(C), the 'phase-out proportion' for a calendar quarter in—

''(A) 2005 is 90 percent;

''(B) a subsequent year before 2014, is the phase-out proportion for calendar quarters in the previous year decreased by 10 percentage points; or

''(C) a year after 2013 is 0 percent.''.

(c) MEDICAID PROVIDING WRAP-AROUND BENEFITS.—Section 1935, as so inserted and amended, is further amended by adding at the end the following new subsection:

''(d) ADDITIONAL PROVISIONS.—

''(1) MEDICAID AS SECONDARY PAYOR.—In the case of an individual who is entitled to qualified prescription drug coverage under a prescription drug plan under part D of title XVIII (or under a Medicare+Choice plan under part C of such title) and medical assistance for prescribed drugs under this title, medical assistance shall continue to be provided under this title for prescribed drugs to the extent payment is not made under the prescription drug plan or the Medicare+Choice plan selected by the individual.

''(2) CONDITION.—A State may require, as a condition for the receipt of medical assistance under this title with respect to prescription drug benefits for an individual eligible to obtain qualified prescription drug coverage described in paragraph (1), that the individual elect qualified prescription drug coverage under section 1860A.''.

(d) TREATMENT OF TERRITORIES.—

(1) IN GENERAL.—Section 1935, as so inserted and amended, is further amended—

(A) in subsection (a) in the matter preceding paragraph (1), by inserting ''subject to subsection (e)'' after ''section 1903(a)'';

(B) in subsection (c)(1), by inserting ''subject to subsection (e)'' after ''1903(a)(1)''; and

(C) by adding at the end the following new subsection:

''(e) TREATMENT OF TERRITORIES.—

''(1) IN GENERAL.—In the case of a State, other than the 50 States and the District of Columbia—

''(A) the previous provisions of this section shall not apply to residents of such State; and

''(B) if the State establishes a plan described in paragraph (2) (for providing medical assistance with respect to the provision of prescription drugs to medicare beneficiaries), the amount otherwise determined under section 1108(f) (as increased under section 1108(g)) for the State shall be increased by the amount specified in paragraph (3).

''(2) PLAN.—The plan described in this paragraph is a plan that—

''(A) provides medical assistance with respect to the provision of covered outpatient drugs (as defined in section 1860B(f)) to low-income medicare beneficiaries; and

''(B) assures that additional amounts received by the State that are attributable to the operation of this subsection are used only for such assistance.

''(3) INCREASED AMOUNT.—

''(A) IN GENERAL.—The amount specified in this paragraph for a State for a year is equal to the product of—

''(i) the aggregate amount specified in subparagraph (B); and

''(ii) the amount specified in section 1108(g)(1) for that State, divided by the sum of the amounts specified in such section for all such States.

''(B) AGGREGATE AMOUNT.—The aggregate amount specified in this subparagraph for—

''(i) 2005, is equal to $20,000,000; or

''(ii) a subsequent year, is equal to the aggregate amount specified in this subparagraph for the previous year increased by annual percentage increase specified in section 1860B(b)(5) for the year involved.

''(4) REPORT.—The Administrator shall submit to Congress a report on the application of this subsection and may include in the report such recommendations as the Administrator deems appropriate.''.

(2) CONFORMING AMENDMENT.—Section 1108(f) (42 U.S.C. 1308(f)) is amended by inserting ''and section 1935(e)(1)(B)'' after ''Subject to subsection (g)''.

(e) AMENDMENT TO BEST PRICE.—Section 1927(c)(1)(C)(i) (42 U.S.C. 1396r–8(c)(1)(C)(i)) is amended—

(1) by striking ''and'' at the end of subclause (III);

(2) by striking the period at the end of subclause (IV) and inserting ''; and''; and

(3) by adding at the end the following new subclause:

''(V) any prices charged which are negotiated by a prescription drug plan under part D of title XVIII, by a Medicare+Choice plan under part C of such title with respect to covered outpatient drugs, or by a qualified retiree prescription drug plan (as defined in section 1860H(f)(1)) with respect to such drugs on behalf of individuals entitled to benefits under part A or enrolled under part B of such title.''.

SEC. 104. MEDIGAP TRANSITION.

(a) IN GENERAL.—Section 1882 (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

''(v) COVERAGE OF PRESCRIPTION DRUGS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, except as provided in paragraph (3) no new medicare supplemental policy that provides coverage of expenses for prescription drugs may be issued under this section on or after January 1, 2005, to an individual unless it replaces a medicare supplemental policy that was issued to that individual and that provided some coverage of expenses for prescription drugs.

''(2) ISSUANCE OF SUBSTITUTE POLICIES IF OBTAIN PRESCRIPTION DRUG COVERAGE UNDER PART D.—

''(A) IN GENERAL.—The issuer of a medicare supplemental policy—

''(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy that has a benefit package classified as 'A', 'B', 'C', 'D', 'E', 'F', or 'G' (under the standards established under subsection (p)(2)) and that is offered and is available for issuance to new enrollees by such issuer;

''(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

''(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such paragraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

''(B) INDIVIDUAL COVERED.—An individual described in this subparagraph is an individual who—

''(i) enrolls in a prescription drug plan under part D; and

''(ii) at the time of such enrollment was enrolled and terminates enrollment in a medicare supplemental policy which has a benefit package classified as 'H', 'I', or 'J' under the standards referred to in subparagraph (A)(i) or terminates enrollment in a policy to which such standards do not apply but which provides benefits for prescription drugs.

''(C) ENFORCEMENT.—The provisions of paragraph (4) of subsection (s) shall apply with respect to the requirements of this paragraph in the same manner as they apply to the requirements of such subsection.

''(3) NEW STANDARDS.—In applying subsection (p)(1)(E) (including permitting the NAIC to revise its model regulations in response to changes in law) with respect to the change in benefits resulting from title I of the Medicare Modernization and Prescription Drug Act of 2002, with respect to policies issued to individuals who are enrolled under part D, the changes in standards shall only provide for substituting for the benefit packages that included coverage for prescription drugs two benefit packages that may provide for coverage of cost-sharing with respect to qualified prescription drug coverage under such part, except that such coverage may not cover the prescription drug deductible under such part. The two benefit packages shall be consistent with the following:

''(A) FIRST NEW POLICY.—The policy described in this subparagraph has the following benefits, notwithstanding any other provision of this section relating to a core benefit package:

''(i) Coverage of 50 percent of the cost-sharing otherwise applicable, except coverage of 100 percent of any cost-sharing otherwise applicable for preventive benefits.

''(ii) No coverage of the part B deductible.

''(iii) Coverage for all hospital coinsurance for long stays (as in the current core benefit package).

''(iv) A limitation on annual out-of-pocket expenditures to $4,000 in 2005 (or, in a subsequent year, to such limitation for the previous year increased by an appropriate inflation adjustment specified by the Secretary).

''(B) SECOND NEW POLICY.—The policy described in this subparagraph has the same benefits as the policy described in subparagraph (A), except as follows:

''(i) Substitute '75 percent' for '50 percent' in clause (i) of such subparagraph.

''(ii) Substitute '$2,000' for '$4,000' in clause (iv) of such subparagraph.

''(4) CONSTRUCTION.—Any provision in this section or in a medicare supplemental policy relating to guaranteed renewability of coverage shall be deemed to have been met

through the offering of other coverage under this subsection.''.

SEC. 105. MEDICARE PRESCRIPTION DRUG DISCOUNT CARD ENDORSEMENT PROGRAM.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1806 the following new sections:

''MEDICARE PRESCRIPTION DRUG DISCOUNT CARD ENDORSEMENT PROGRAM

''SEC. 1807. (a) IN GENERAL.—The Secretary (or the Medicare Benefits Administrator pursuant to section 1808(c)(3)(C)) shall establish a program—

''(1) to endorse prescription drug discount card programs that meet the requirements of this section; and

''(2) to make available to medicare beneficiaries information regarding such endorsed programs.

''(b) REQUIREMENTS FOR ENDORSEMENT.—The Secretary may not endorse a prescription drug discount card program under this section unless the program meets the following requirements:

''(1) SAVINGS TO MEDICARE BENEFICIARIES.—The program passes on to medicare beneficiaries who enroll in the program discounts on prescription drugs, including discounts negotiated with manufacturers.

''(2) PROHIBITION ON APPLICATION ONLY TO MAIL ORDER.—The program applies to drugs that are available other than solely through mail order.

''(3) BENEFICIARY SERVICES.—The program provides pharmaceutical support services, such as education and counseling, and services to prevent adverse drug interactions.

''(4) INFORMATION.—The program makes available to medicare beneficiaries through the Internet and otherwise information, including information on enrollment fees, prices charged to beneficiaries, and services offered under the program, that the Secretary identifies as being necessary to provide for informed choice by beneficiaries among endorsed programs.

''(5) DEMONSTRATED EXPERIENCE.—The entity operating the program has demonstrated experience and expertise in operating such a program or a similar program.

''(6) QUALITY ASSURANCE.—The entity has in place adequate procedures for assuring quality service under the program.

''(7) OPERATION OF ASSISTANCE PROGRAM.—The entity meets such requirements relating to solvency, compliance with financial reporting requirements, audit compliance, and contractual guarantees as the Secretary finds necessary for the participation of the sponsor in the low-income assistance program under section 1807A.

''(8) ENROLLMENT FEES.—The program may charge an annual enrollment fee, but the amount of such annual fee may not exceed $25.

''(9) ADDITIONAL BENEFICIARY PROTECTIONS.—The program meets such additional requirements as the Secretary identifies to protect and promote the interest of medicare beneficiaries, including requirements that ensure that beneficiaries are not charged more than the lower of the negotiated retail price or the usual and customary price.

The prices negotiated by a prescription drug discount card program endorsed under this section shall (notwithstanding any other provision of law) not be taken into account for the purposes of establishing the best price under section 1927(c)(1)(C).

''(c) PROGRAM OPERATION.—The Secretary shall operate the program under this section consistent with the following:

''(1) PROMOTION OF INFORMED CHOICE.—In order to promote informed choice among endorsed prescription drug discount card programs, the Secretary shall provide for the dissemination of information which compares the prices and services of such programs in a manner coordinated with the dissemination of educational information on Medicare+Choice plans under part C.

''(2) OVERSIGHT.—The Secretary shall provide appropriate oversight to ensure compliance of endorsed programs with the requirements of this section, including verification of the discounts and services provided.

''(3) USE OF MEDICARE TOLL-FREE NUMBER.—The Secretary shall provide through the 1-800-medicare toll free telephone number for the receipt and response to inquiries and complaints concerning the program and programs endorsed under this section.

''(4) SANCTIONS FOR ABUSIVE PRACTICES.—The Secretary may implement intermediate sanctions or may revoke the endorsement of a program in the case of a program that the Secretary determines no longer meets the requirements of this section or that has engaged in false or misleading marketing practices.

''(5) ENROLLMENT PRACTICES.—A medicare beneficiary may not be enrolled in more than one endorsed program at any time. A medicare beneficiary may change the endorsed program in which the beneficiary is enrolled, but may not make such change until the beneficiary has been enrolled in a program for a minimum period of time specified by the Secretary.

''(d) TRANSITION.—The Secretary shall provide for an appropriate transition and discontinuation of the program under this section at the time prescription drug benefits first become available under part D.

''(e) ENDORSEMENT CONDITION.—The Secretary shall require, as condition of endorsement under of a prescription drug discount card program under this section that the program implement policies and procedures to safeguard the use and disclosure of program beneficiaries' individually identifiable health information in a manner consistent with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program under this section and section 1807A.

''TRANSITIONAL PRESCRIPTION DRUG ASSISTANCE PROGRAM FOR LOW-INCOME BENEFICIARIES

''SEC. 1807A. (a) PURPOSE.—The purpose of this section is to provide low-income medicare beneficiaries with immediate assistance in the purchase of covered outpatient prescription drugs during the period before the program under part D becomes effective.

''(b) FUNDS AVAILABLE; ALLOTMENTS.—

''(1) APPROPRIATIONS; TOTAL ALLOTMENTS.—

''(A) APPROPRIATIONS.—For the purpose of carrying out this section, there is appropriated, out of any money in the Treasury not otherwise appropriated—

''(i) for fiscal year 2003, $300,000,000;

''(ii) for fiscal year 2004, $2,100,000,000; and

''(iii) for fiscal year 2005, $500,000,000.

''(2) ALLOTMENTS.—

''(A) AMONG RESIDENTS OF 50 STATES AND THE DISTRICT OF COLUMBIA.—Subject to subparagraph (B), the amount appropriated under subparagraph (A) for each fiscal year shall be allotted among the 50 States and the District of Columbia based upon the Secretary's estimate of each State's or District's proportion of the total number of medicare beneficiaries with income below 175 percent of the Federal poverty line residing in all such States and the District. The Secretary shall determine the amount of the allotment for each such State and District not later than July 1, 2003.

''(B) AMONG RESIDENTS OF TERRITORIES.—Of the amount appropriated under subparagraph (A) for a fiscal year, the Secretary shall allot a percentage (determined consistent with the allotment provided to territories under the State children's health insurance program under section 2104(c)) among the commonwealths and territories described in section 2104(c)(3) in the same proportion as the allotment proportion under such program is allowed among such commonwealths and territories.

''(3) AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted with respect to a State pursuant to this subsection for a fiscal year shall remain available for expenditure through the end of the fiscal year in which benefits are first available under part D. Any funds allotted to States that are not obligated revert to the General Fund of the Treasury.

''(4) LIMITATION.—In no case shall the total amount of payments for assistance to eligible individuals (and administrative costs) in a State for a fiscal year (and previous fiscal years) under this section exceed the amount of the allotments with respect to that State in that year (and previous fiscal years). Nothing in this section shall be construed as preventing a State from providing, with its own funds, pharmaceutical assistance that is in addition to the assistance funded under this section.

''(c) ELIGIBILITY.—

''(1) IN GENERAL.—Taking into account the amounts allotted with respect to each State under subsection (b) and the minimum dollar value on assistance per eligible individual specified by the Secretary under subsection (d)(3), the Secretary shall establish guidelines for the establishment by each State of eligibility standards consistent with paragraph (2).

''(2) ELIGIBILITY RESTRICTIONS.—In no case shall an individual residing in a State be eligible for assistance under this section unless the individual—

''(A) is entitled to benefits under part A or enrolled under part B;

''(B) has income that is at or below a percentage (specified under the State eligibility plan under paragraph (1), but not to exceed 175 percent) of the Federal poverty line; and

''(C) meets the resources requirement described in section 1905(p)(1)(C);

''(D) is enrolled under a prescription drug discount card program (or under an alternative program authorized under subsection (d)(1)(B)); and

''(E) is not eligible for coverage of, or assistance for, outpatient prescription drugs under any of the following:

''(i) A medicaid plan under title XIX (including under any waiver approved under section 1115).

''(ii) Enrollment under a group health plan or health insurance coverage.

''(iii) Enrollment under a medicare supplemental insurance policy.

''(iv) Chapter 55 of title 10, United States Code (relating to medical and dental care for members of the uniformed services).

''(v) Chapter 17 of title 38, United States Code (relating to Veterans' medical care).

''(vi) Enrollment under a plan under chapter 89 of title 5, United States Code (relating to the Federal employees' health benefits program).

''(vii) The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

''(3) INCOME DETERMINATIONS.—The provisions of section 1860G(4)(C) shall apply for purposes of applying this subsection.

''(d) FORM OF ASSISTANCE AND AMOUNT OF BENEFITS.—

''(1) IN GENERAL.—

''(A) THROUGH PROGRAM SPONSOR.—Subject to subparagraph (B), the assistance under this section to an eligible individual shall be in the form of a discount (as identified by the sponsor to the Secretary) provided by the sponsor of a prescription drug discount card program to eligible individuals who are enrolled in such program.

''(B) THROUGH ALTERNATIVE STATE PROGRAM.—A State may apply to the Secretary for authorization to provide the assistance under this section to an eligible individual through a State pharmaceutical assistance program or private program of pharmaceutical assistance. The Secretary shall not authorize the use of such a program unless the Secretary finds that the program—

''(i) was in existence before the date of the enactment of this section; and

''(ii) is reasonably designed to provide for pharmaceutical assistance for a number of individuals, and in a scope, that is not less than the number of individuals, and minimum required amount, that would occur if the provisions of this subparagraph had not applied in the State.

''(2) GUIDANCE; MINIMUM LEVEL OF ASSISTANCE.—The Secretary shall establish guidelines for how the program under this section will operate. Based upon the aggregate amount appropriated in each fiscal year and other relevant factors, the Secretary shall establish a minimum amount of assistance that is available, subject to paragraph (4)(B), to each eligible individual for each calendar quarter (or other period specified by the Secretary) and provide guidance to sponsors regarding how assistance funds may be provided to eligible individuals consistent with such amount and funding limitations.

''(3) RELATIONSHIP TO DISCOUNTS.—The assistance provided under this section is in addition to the discount otherwise available to individuals enrolled in prescription drug discount card programs who are not eligible individuals.

''(4) LIMITATION ON ASSISTANCE.—

''(A) IN GENERAL.—The assistance under this section for an eligible individual shall be limited to assistance—

''(i) for covered outpatient drugs (as defined in section 1860B(f)) and for enrollment fees imposed under prescription drug discount card programs; and

''(ii) for expenses incurred—

''(I) on and after the date the individual is both enrolled in the prescription drug discount card program and determined to be an eligible individual under this section; and

''(II) before the date benefits are first available under the program under part D.

''(B) AUTHORITY.—The Secretary shall take such steps as may be necessary to assure compliance with the expenditure limitations described in subsection (b)(4).

''(e) PAYMENT OF FEDERAL SUBSIDY TO SPONSORS.—

''(1) IN GENERAL.—The Secretary shall make payment (within the allotments for each State, less the administrative payments made subsection (f)(2) to each State) to the sponsor of the prescription drug discount card program (or to a State or other entity operating a program under subsection (d)(1)(B)) in which an eligible individual is enrolled of the amount of the assistance provided by the sponsor pursuant to this section.

''(2) PERIODIC PAYMENTS.—Payments under this subsection (and subsection (f)(2)) shall be made on a monthly or other periodic installment basis, based upon estimates of the Secretary and shall be reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section for any prior period and with respect to which adjustment has not already been made under this paragraph.

''(f) STATE RESPONSIBILITIES.—

''(1) ELIGIBILITY DETERMINATIONS.—As a condition for the payment of Federal financial participation to a State under section 1903(a) for periods during which assistance is available under this section, the State must submit to the Secretary an eligibility plan under which the State—

''(A) establishes eligibility standards consistent with the provisions of this section;

''(B) conducts determinations of eligibility and income in the same manner as the State is required to make eligibility and income determinations described in section 1860G(a)(4); and

''(C) communicates to the Secretary (or the Secretary's designee) determinations of eligibility or discontinuation of eligibility under this section.

The Secretary shall provide a method for communicating with sponsors concerning the identity of eligible individuals.

''(2) COVERAGE OF ADMINISTRATIVE COSTS.—Of the amount allotted with respect to a State under subsection (b), the Secretary shall pay to the State the amount of its administrative costs in carrying out this subsection, but not to exceed 10 percent of the amount of such allotment to the State. The provisions of subsection (e)(2) shall apply to such payments.

''(g) DEFINITIONS.—For purposes of this section:

''(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who is determined by a State to be eligible for assistance under this section.

''(2) PRESCRIPTION DRUG DISCOUNT CARD PROGRAM.—The term 'prescription drug discount card program' means such a program that is endorsed under section 1807.

''(3) SPONSOR.—The term 'sponsor' means the sponsor of a prescription drug discount card program, or, in the case of a program authorized under subsection (d)(1)(B), the State or other entity operating the program.

''(4) STATE.—The term 'State' has the meaning given such term for purposes of title XIX.''.

(b) CONFORMING AMENDMENT.—Section 1927(c)(1)(C)(i)(V) (42 U.S.C. 1396r–8(c)(1)(C)(i)(V)), as added by section 103(e), is amended by striking ''or by a qualified retiree prescription drug plan (as defined in section 1860H(f)(1))'' and inserting ''by a qualified retiree prescription drug plan (as defined in section 1860H(f)(1)), or by a prescription drug discount card program endorsed under section 1807''.

SEC. 106. GAO STUDY OF THE EFFECTIVENESS OF THE NEW PRESCRIPTION DRUG PROGRAM.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the effectiveness of the prescription drug program provided under part D of title XVIII of the Social Security Act. Such study shall—

(1) report—

(A) the percentage of eligible individuals who enrolled in the program;

(B) the demographic characteristics (including health status) of such enrollees;

(C) the number and type of qualified prescription drug coverage available to such individuals; and

(D) the premiums imposed for enrollment in different areas;

(2) evaluate the processes and methods developed by the Administrator and the decisions reached by outside actuaries to determine the actuarial valuation of prescription drug coverage; and

(3) assess whether the subsidy payments under such part accomplished its stated goals of reducing premium levels for all beneficiaries, reducing adverse selection, and promoting participation of PDP sponsors.

(b) REPORT.—Not later January 1, 2006, the Comptroller General shall submit a report to Congress on the study conducted under subsection (a).

TITLE II—MEDICARE+CHOICE REVITALIZATION AND MEDICARE+CHOICE COMPETITION PROGRAM

Subtitle A—Medicare+Choice Revitalization

SEC. 201. MEDICARE+CHOICE IMPROVEMENTS.

(a) EQUALIZING PAYMENTS BETWEEN FEE-FOR-SERVICE AND MEDICARE+CHOICE.—

(1) IN GENERAL.—Section 1853(c)(1) (42 U.S.C. 1395w–23(c)(1)) is amended by adding at the end the following:

''(D) BASED ON 100 PERCENT OF FEE-FOR-SERVICE COSTS.—

''(i) IN GENERAL.—For 2003 and 2004, the adjusted average per capita cost for the year involved, determined under section 1876(a)(4) for the Medicare+Choice payment area for services covered under parts A and B for individuals entitled to benefits under part A and enrolled under part B who are not enrolled in a Medicare+Choice plan under this part for the year, but adjusted to exclude costs attributable to payments under section 1886(h).

''(ii) INCLUSION OF COSTS OF VA AND DOD MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the adjusted average per capita cost under clause (i) for a year, such cost shall be adjusted to include the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Veterans Affairs or the Department of Defense.''.

(2) CONFORMING AMENDMENT.—Such section is further amended, in the matter before subparagraph (A), by striking ''or (C)'' and inserting ''(C), or (D)''.

(b) REVISION OF BLEND.—

(1) REVISION OF NATIONAL AVERAGE USED IN CALCULATION OF BLEND.—Section 1853(c)(4)(B)(i)(II) (42 U.S.C. 1395w–23(c)(4)(B)(i)(II)) is amended by inserting ''who (with respect to determinations for 2003 and for 2004) are enrolled in a Medicare+Choice plan'' after ''the average number of medicare beneficiaries''.

(2) CHANGE IN BUDGET NEUTRALITY.—Section 1853(c) (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1)(A), by inserting ''(for a year before 2003)'' after ''multiplied''; and

(B) in paragraph (5), by inserting ''(before 2003)'' after ''for each year''.

(c) REVISION IN MINIMUM PERCENTAGE INCREASE FOR 2003 AND 2004.—Section 1853(c)(1)(C) (42 U.S.C. 1395w–23(c)(1)(C)) is amended by striking clause (iv) and inserting the following:

''(iv) For 2002, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for 2001.

''(v) For 2003 and 2004, 103 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

''(vi) For 2005 and each succeeding year, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.''.

(d) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES IN CALCULATION OF MEDICARE+CHOICE PAYMENT RATES.—Section 1853(c)(3) (42 U.S.C. 1395w–23(c)(3)) is amended—

(1) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (E)'', and

(2) by adding at the end the following new subparagraph:

''(E) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the area-specific Medicare+Choice capitation rate under subparagraph (A) for a year (beginning with 2003), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to include in the rate the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Defense or the Department of Veterans Affairs.''.

(e) ANNOUNCEMENT OF REVISED MEDICARE+CHOICE PAYMENT RATES.—Within 4 weeks after the date of the enactment of this Act, the Secretary shall determine, and shall announce (in a manner intended to provide notice to interested parties) Medicare+Choice capitation rates under section 1853 of the Social Security Act (42 U.S.C. 1395w–23) for 2003, revised in accordance with the provisions of this section.

(f) MEDPAC STUDY OF AAPCC.—

(1) STUDY.—The Medicare Payment Advisory Commission shall conduct a study that assesses the method used for determining the adjusted average per capita cost (AAPCC) under section 1876(a)(4) of the Social Security Act (42 U.S.C. 1395mm(a)(4)). Such study shall examine—

(A) the bases for variation in such costs between different areas, including differences in input prices, utilization, and practice patterns;

(B) the appropriate geographic area for payment under the Medicare+Choice program under part C of title XVIII of such Act; and

(C) the accuracy of risk adjustment methods in reflecting differences in costs of providing care to different groups of beneficiaries served under such program.

(2) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include recommendations regarding changes in the methods for computing the adjusted average per capita cost among different areas.

(g) REPORT ON IMPACT OF INCREASED FINANCIAL ASSISTANCE TO MEDICARE+CHOICE PLANS.—Not later than July 1, 2003, the Secretary of Health and Human Services shall submit to Congress a report that describes the impact of additional financing provided under this Act and other Acts (including the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 and BIPA) on the availability of Medicare+Choice plans in different areas and its impact on lowering premiums and increasing benefits under such plans.

SEC. 202. MAKING PERMANENT CHANGE IN MEDICARE+CHOICE REPORTING DEADLINES AND ANNUAL, COORDINATED ELECTION PERIOD.

(a) CHANGE IN REPORTING DEADLINE.—Section 1854(a)(1) (42 U.S.C. 1395w–24(a)(1)), as amended by section 532(b)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking ''2002, 2003, and 2004 (or July 1 of each other year)'' and inserting ''2002 and each subsequent year (or July 1 of each year before 2002)''.

(b) DELAY IN ANNUAL, COORDINATED ELECTION PERIOD.—Section 1851(e)(3)(B) (42 U.S.C. 1395w–21(e)(3)(B)), as amended by section 532(c)(1)(A) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking ''and after 2005, the month of November before such year and with respect to 2003, 2004, and 2005'' and inserting '', the month of November before such year and with respect to 2003 and any subsequent year''.

(c) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—Section 1853(b)(1) (42 U.S.C. 1395w–23(b)(1)), as amended by section 532(d)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking ''and after 2005 not later than March 1 before the calendar year concerned and for 2004 and 2005'' and inserting ''not later than March 1 before the calendar year concerned and for 2004 and each subsequent year''.

(d) REQUIRING PROVISION OF AVAILABLE INFORMATION COMPARING PLAN OPTIONS.—The first sentence of section 1851(d)(2)(A)(ii) (42 U.S.C. 1395w–21(d)(2)(A)(ii)) is amended by inserting before the period the following: ''to the extent such information is available at the time of preparation of materials for the mailing''.

SEC. 203. AVOIDING DUPLICATIVE STATE REGULATION.

(a) IN GENERAL.—Section 1856(b)(3) (42 U.S.C. 1395w–26(b)(3)) is amended to read as follows:

''(3) RELATION TO STATE LAWS.—The standards established under this subsection shall supersede any State law or regulation (other than State licensing laws or State laws relating to plan solvency) with respect to Medicare+Choice plans which are offered by Medicare+Choice organizations under this part.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 204. SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.

(a) TREATMENT AS COORDINATED CARE PLAN.—Section 1851(a)(2)(A) (42 U.S.C. 1395w–21(a)(2)(A)) is amended by adding at the end the following new sentence: ''Specialized Medicare+Choice plans for special needs beneficiaries (as defined in section 1859(b)(4)) may be any type of coordinated care plan.''.

(b) SPECIALIZED MEDICARE+CHOICE PLAN FOR SPECIAL NEEDS BENEFICIARIES DEFINED.—Section 1859(b) (42 U.S.C. 1395w–29(b)) is amended by adding at the end the following new paragraph:

''(4) SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.—

''(A) IN GENERAL.—The term 'specialized Medicare+Choice plan for special needs beneficiaries' means a Medicare+Choice plan that exclusively serves special needs beneficiaries (as defined in subparagraph (B)).

''(B) SPECIAL NEEDS BENEFICIARY.—The term 'special needs beneficiary' means a Medicare+Choice eligible individual who—

''(i) is institutionalized (as defined by the Secretary);

''(ii) is entitled to medical assistance under a State plan under title XIX; or

''(iii) meets such requirements as the Secretary may determine would benefit from enrollment in such a specialized Medicare+Choice plan described in subparagraph (A) for individuals with severe or disabling chronic conditions.''.

(c) RESTRICTION ON ENROLLMENT PERMITTED.—Section 1859 (42 U.S.C. 1395w–29) is amended by adding at the end the following new subsection:

''(f) RESTRICTION ON ENROLLMENT FOR SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.—In the case of a specialized Medicare+Choice plan (as defined in subsection (b)(4)), notwithstanding any other provision of this part and in accordance with regulations of the Secretary and for periods before January 1, 2007, the plan may restrict the enrollment of individuals under the plan to individuals who are within one or more classes of special needs beneficiaries.''.

(d) REPORT TO CONGRESS.—Not later than December 31, 2005, the Medicare Benefits Administrator shall submit to Congress a report that assesses the impact of specialized Medicare+Choice plans for special needs beneficiaries on the cost and quality of services provided to enrollees. Such report shall include an assessment of the costs and savings to the medicare program as a result of amendments made by subsections (a), (b), and (c).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall take effect upon the date of the enactment of this Act.

(2) DEADLINE FOR ISSUANCE OF REQUIREMENTS FOR SPECIAL NEEDS BENEFICIARIES; TRANSITION.—No later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to establish requirements for special needs beneficiaries under section 1859(b)(4)(B)(iii) of the Social Security Act, as added by subsection (b).

SEC. 205. MEDICARE MSAS.

(a) EXEMPTION FROM REPORTING ENROLLEE ENCOUNTER DATA.—

(1) IN GENERAL.—Section 1852(e)(1) (42 U.S.C. 1395w–22(e)(1)) is amended by inserting ''(other than MSA plans)'' after ''Medicare+Choice plans''.

(2) CONFORMING AMENDMENTS.—Section 1852 (42 U.S.C. 1395w–22) is amended—

(A) in subsection (c)(1)(I), by inserting before the period at the end the following: ''if required under such section''; and

(B) in subparagraphs (A) and (B) of subsection (e)(2), by striking '', a non-network MSA plan,'' and '', NON-NETWORK MSA PLANS,'' each place it appears.

(b) MAKING PROGRAM PERMANENT AND ELIMINATING CAP.—Section 1851(b)(4) (42 U.S.C. 1395w–21(b)(4)) is amended—

(1) in the heading, by striking ''ON A DEMONSTRATION BASIS'';

(2) by striking the first sentence of subparagraph (A); and

(3) by striking the second sentence of subparagraph (C).

(c) APPLYING LIMITATIONS ON BALANCE BILLING.—Section 1852(k)(1) (42 U.S.C. 1395w–22(k)(1)) is amended by inserting ''or with an organization offering a MSA plan'' after ''section 1851(a)(2)(A)''.

(d) ADDITIONAL AMENDMENT.—Section 1851(e)(5)(A) (42 U.S.C. 1395w–21(e)(5)(A)) is amended—

(1) by adding ''or'' at the end of clause (i);

(2) by striking '', or'' at the end of clause (ii) and inserting a semicolon; and

(3) by striking clause (iii).

SEC. 206. EXTENSION OF REASONABLE COST AND SHMO CONTRACTS.

(a) REASONABLE COST CONTRACTS.—

(1) IN GENERAL.—Section 1876(h)(5)(C) (42 U.S.C. 1395mm(h)(5)(C)) is amended—

(A) by inserting ''(i)'' after ''(C)'';

(B) by inserting before the period the following: '', except (subject to clause (ii)) in the case of a contract for an area which is not covered in the service area of 1 or more coordinated care Medicare+Choice plans under part C''; and

(C) by adding at the end the following new clause:

''(ii) In the case in which—

''(I) a reasonable cost reimbursement contract includes an area in its service area as of a date that is after December 31, 2003;

''(II) such area is no longer included in such service area after such date by reason of the operation of clause (i) because of the inclusion of such area within the service area of a Medicare+Choice plan; and

''(III) all Medicare+Choice plans subsequently terminate coverage in such area;

such reasonable cost reimbursement contract may be extended and renewed to cover such area (so long as it is not included in the service area of any Medicare+Choice plan).''.

(2) STUDY.—The Medicare Benefits Administrator shall conduct a study of an appropriate transition for plans offered under reasonable cost contracts under section 1876 of the Social Security Act on and after January 1, 2005. Such a transition may take into account whether there are one or more coordinated care Medicare+Choice plans being offered in the areas involved. Not later than February 1, 2004, the Administrator shall submit to Congress a report on such study and shall include recommendations regarding any changes in the amendment made by paragraph (1) as the Administrator determines to be appropriate.

(b) EXTENSION OF SOCIAL HEALTH MAINTENANCE ORGANIZATION (SHMO) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 4018(b)(1) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking ''the date that is 30 months after the date that the Secretary submits to Congress the report described in section 4014(c) of the Balanced Budget Act of 1997'' and inserting ''December 31, 2004''.

(2) SHMOS OFFERING MEDICARE+CHOICE PLANS.—Nothing in such section 4018 shall be construed as preventing a social health maintenance organization from offering a Medicare+Choice plan under part C of title XVIII of the Social Security Act.

Subtitle B—Medicare+Choice Competition Program

SEC. 211. MEDICARE+CHOICE COMPETITION PROGRAM.

(a) SUBMISSION OF BID AMOUNTS.—Section 1854 (42 U.S.C. 1395w–24) is amended—

(1) in the heading by inserting ''AND BID AMOUNTS'' after ''PREMIUMS'';

(2) in subsection (a)(1)(A)—

(A) by striking ''(A)'' and inserting ''(A)(i) if the following year is before 2005,''; and

(B) by inserting before the semicolon at the end the following: ''or (ii) if the following year is 2005 or later, the information described in paragraph (6)(A)''; and

(3) by adding at the end of subsection (a) the following:

''(6) SUBMISSION OF BID AMOUNTS BY MEDICARE+CHOICE ORGANIZATIONS.—

''(A) INFORMATION TO BE SUBMITTED.—The information described in this subparagraph is as follows:

''(i) The monthly aggregate bid amount for provision of all items and services under this part and the actuarial basis for determining such amount.

''(ii) The proportions of such bid amount that are attributable to—

''(I) the provision of statutory non-drug benefits (such portion referred to in this part as the 'unadjusted non-drug monthly bid amount');

''(II) the provision of statutory prescription drug benefits; and

''(III) the provision of non-statutory benefits;

and the actuarial basis for determining such proportions.

''(iii) Such additional information as the Administrator may require to verify the actuarial bases described in clauses (i) and (ii).

''(B) STATUTORY BENEFITS DEFINED.—For purposes of this part:

''(i) The term 'statutory non-drug benefits' means benefits under parts A and B.

''(ii) The term 'statutory prescription drug benefits' means benefits under part D.

''(iii) The term 'statutory benefits' means statutory prescription drug benefits and statutory non-drug benefits.

''(C) ACCEPTANCE AND NEGOTIATION OF BID AMOUNTS.—The Administrator has the authority to negotiate regarding monthly bid amounts submitted under subparagraph (A) (and the proportion described in subparagraph (A)(ii)). The Administrator may reject such a bid amount or proportion if the Administrator determines that such amount or proportion is not supported by the actuarial bases provided under subparagraph (A).''.

(b) PROVIDING FOR BENEFICIARY SAVINGS FOR CERTAIN PLANS.—

(1) IN GENERAL.—Section 1854(b) (42 U.S.C. 1395w–24(b)) is amended—

(A) by adding at the end of paragraph (1) the following new subparagraph:

''(C) BENEFICIARY REBATE RULE.—

''(i) REQUIREMENT.—The Medicare+Choice plan shall provide to the enrollee a monthly rebate equal to 75 percent of the average per capita savings (if any) described in paragraph (3) applicable to the plan and year involved.

''(iii) FORM OF REBATE.—A rebate required under this subparagraph shall be provided—

''(I) through the crediting of the amount of the rebate towards the Medicare+Choice monthly supplementary beneficiary premium or the premium imposed for prescription drug coverage under part D;

''(II) through a direct monthly payment (through electronic funds transfer or otherwise); or

''(III) through other means approved by the Medicare Benefits Administrator,

or any combination thereof.''; and

(B) by adding at the end the following new paragraph:

''(3) COMPUTATION OF AVERAGE PER CAPITA MONTHLY SAVINGS.—For purposes of paragraph (1)(C)(i), the average per capita monthly savings referred to in such paragraph for a Medicare+Choice plan and year is computed as follows:

''(A) DETERMINATION OF STATE-WIDE AVERAGE RISK ADJUSTMENT.—

''(i) IN GENERAL.—The Medicare Benefits Administrator shall determine, at the same time rates are promulgated under section 1853(b)(1) (beginning with 2005), for each State the average of the risk adjustment factors to be applied to enrollees under section 1853(a)(1)(A) in that State. In the case of a State in which a Medicare+Choice plan was offered in the previous year, the Administrator may compute such average based upon risk adjustment factors applied in that State in a previous year.

''(ii) TREATMENT OF NEW STATES.—In the case of a State in which no Medicare+Choice plan was offered in the previous year, the Administrator shall estimate such average. In making such estimate, the Administrator may use average risk adjustment factors applied to comparable States or applied on a national basis.

''(B) DETERMINATION OF RISK ADJUSTED BENCHMARK AND RISK-ADJUSTED BID.—For each Medicare+Choice plan offered in a State, the Administrator shall—

''(i) adjust the fee-for-service area-specific non-drug benchmark amount by the applicable average risk adjustment factor computed under subparagraph (A); and

''(ii) adjust the unadjusted non-drug monthly bid amount by such applicable average risk adjustment factor.

''(C) DETERMINATION OF AVERAGE PER CAPITA MONTHLY SAVINGS.—The average per capita monthly savings described in this subparagraph is equal to the amount (if any) by which—

''(i) the risk-adjusted benchmark amount computed under subparagraph (B)(i), exceeds

''(ii) the risk-adjusted bid computed under subparagraph (B)(ii).

''(D) AUTHORITY TO DETERMINE RISK ADJUSTMENT FOR AREAS OTHER THAN STATES.—The Administrator may provide for the determination and application of risk adjustment factors under this paragraph on the basis of areas other than States.''.

(2) COMPUTATION OF FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BENCHMARK.—Section 1853 (42 U.S.C. 1395w–23) is amended by adding at the end the following new subsection:

''(j) COMPUTATION OF FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BENCHMARK AMOUNT.—For purposes of this part, the term 'fee-for-service area-specific non-drug benchmark amount' means, with respect to a Medicare+Choice payment area for a month in a year, an amount equal to the greater of the following (but in no case less than 1/12 of the rate computed under subsection (c)(1), without regard to subparagraph (A), for the year):

''(1) BASED ON 100 PERCENT OF FEE-FOR-SERVICE COSTS IN THE AREA.—An amount equal to 1/12 of 100 percent (for 2005 through 2007, or 95 percent for 2008 and years thereafter) of the adjusted average per capita cost for the year involved, determined under section 1876(a)(4) for the Medicare+Choice payment area, for the area and the year involved, for services covered under parts A and B for individuals entitled to benefits under part A and enrolled under part B who are not enrolled in a Medicare+Choice plan under this part for the year, and adjusted to exclude from such cost the amount the Medicare Benefits Administrator estimates is payable for costs described in subclauses (I) and (II) of subsection (c)(3)(C)(i) for the year involved and also adjusted in the manner described in subsection (c)(1)(D)(ii) (relating to inclusion of costs of VA and DOD military facility services to medicare-eligible beneficiaries).

''(2) MINIMUM MONTHLY AMOUNT.—The minimum amount specified in this paragraph is the amount specified in subsection (c)(1)(B)(iv) for the year involved.''.

(c) PAYMENT OF PLANS BASED ON BID AMOUNTS.—

(1) IN GENERAL.—Section 1853(a)(1)(A) (42 U.S.C. 1395w–23) is amended by striking ''in an amount'' and all that follows and inserting the following: ''in an amount determined as follows:

''(i) PAYMENT BEFORE 2005.—For years before 2005, the payment amount shall be equal to 1/12 of the annual Medicare+Choice capitation rate (as calculated under subsection (c)) with respect to that individual for that area, reduced by the amount of any reduction elected under section 1854(f)(1)(E) and adjusted under clause (iii).

''(ii) PAYMENT FOR STATUTORY NON-DRUG BENEFITS BEGINNING WITH 2005.—For years beginning with 2005—

''(I) PLANS WITH BIDS BELOW BENCHMARK.—In the case of a plan for which there are average per capita monthly savings described in section 1854(b)(3)(C), the payment under this subsection is equal to the unadjusted non-drug monthly bid amount, adjusted under clause (iii), plus the amount of the monthly rebate computed under section 1854(b)(1)(C)(i) for that plan and year.

''(II) PLANS WITH BIDS AT OR ABOVE BENCHMARK.—In the case of a plan for which there are no average per capita monthly savings described in section 1854(b)(3)(C), the payment amount under this subsection is equal to the fee-for-service area-specific non-drug benchmark amount, adjusted under clause (iii).

''(iii) DEMOGRAPHIC ADJUSTMENT, INCLUDING ADJUSTMENT FOR HEALTH STATUS.—The Administrator shall adjust the payment amount under clause (i), the unadjusted non-drug monthly bid amount under clause (ii)(I), and the fee-for-service area-specific non-drug benchmark amount under clause (ii)(II) for such risk factors as age, disability status, gender, institutional status, and such

other factors as the Administrator determines to be appropriate, including adjustment for health status under paragraph (3), so as to ensure actuarial equivalence. The Administrator may add to, modify, or substitute for such adjustment factors if such changes will improve the determination of actuarial equivalence.

''(iv) REFERENCE TO SUBSIDY PAYMENT FOR STATUTORY DRUG BENEFITS.—In the case in which an enrollee is enrolled under part D, the Medicare+Choice organization also is entitled to a subsidy payment amount under section 1860H.''.

(d) CONFORMING AMENDMENTS.—

(1) PROTECTION AGAINST BENEFICIARY SELECTION.—Section 1852(b)(1)(A) (42 U.S.C. 1395w–22(b)(1)(A)) is amended by adding at the end the following: ''The Administrator shall not approve a plan of an organization if the Administrator determines that the benefits are designed to substantially discourage enrollment by certain Medicare+Choice eligible individuals with the organization.''.

(2) CONFORMING AMENDMENT TO PREMIUM TERMINOLOGY.—Subparagraphs (A) and (B) of section 1854(b)(2) (42 U.S.C. 1395w–24(b)(2)) are amended to read as follows:

''(A) MEDICARE+CHOICE MONTHLY BASIC BENEFICIARY PREMIUM.—The term 'Medicare+Choice monthly basic beneficiary premium' means, with respect to a Medicare+Choice plan—

''(i) described in section 1853(a)(1)(A)(ii)(I) (relating to plans providing rebates), zero; or

''(ii) described in section 1853(a)(1)(A)(ii)(II), the amount (if any) by which the unadjusted non-drug monthly bid amount exceeds the fee-for-service area-specific non-drug benchmark amount.

''(B) MEDICARE+CHOICE MONTHLY SUPPLEMENTAL BENEFICIARY PREMIUM.—The term 'Medicare+Choice monthly supplemental beneficiary premium' means, with respect to a Medicare+Choice plan, the portion of the aggregate monthly bid amount submitted under clause (i) of subsection (a)(6)(A) for the year that is attributable under such section to the provision of nonstatutory benefits.''.

(3) REQUIREMENT FOR UNIFORM BID AMOUNTS.—Section 1854(c) (42 U.S.C. 1395w–24(c)) is amended to read as follows:

''(c) UNIFORM BID AMOUNTS.—The Medicare+Choice monthly bid amount submitted under subsection (a)(6) of a Medicare+Choice organization under this part may not vary among individuals enrolled in the plan.''.

(4) PERMITTING BENEFICIARY REBATES.—

(A) Section 1851(h)(4)(A) (42 U.S.C. 1395w–21(h)(4)(A)) is amended by inserting ''except as provided under section 1854(b)(1)(C)'' after ''or otherwise''.

(B) Section 1854(d) (42 U.S.C. 1395w–24(d)) is amended by inserting '', except as provided under subsection (b)(1)(C),'' after ''and may not provide''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and premiums for months beginning with January 2005.

SEC. 212. DEMONSTRATION PROGRAM FOR COMPETITIVE-DEMONSTRATION AREAS.

(a) IDENTIFICATION OF COMPETITIVE-DEMONSTRATION AREAS FOR DEMONSTRATION PROGRAM; COMPUTATION OF CHOICE NON-DRUG BENCHMARKS.—Section 1853, as amended by section 211(b)(2), is amended by adding at the end the following new subsection:

''(k) ESTABLISHMENT OF COMPETITIVE DEMONSTRATION PROGRAM.—

''(1) DESIGNATION OF COMPETITIVE-DEMONSTRATION AREAS AS PART OF PROGRAM.—

''(A) IN GENERAL.—For purposes of this part, the Administrator shall establish a demonstration program under which the Administrator designates Medicare+Choice areas as competitive-demonstration areas consistent with the following limitations:

''(i) LIMITATION ON NUMBER OF AREAS THAT MAY BE DESIGNATED.—The Administrator may not designate more than 4 areas as competitive-demonstration areas.

''(ii) LIMITATION ON PERIOD OF DESIGNATION OF ANY AREA.—The Administrator may not designate any area as a competitive-demonstration area for a period of more than 2 years.

The Administrator has the discretion to decide whether or not to designate as a competitive-demonstration area an area that qualifies for such designation.

''(B) QUALIFICATIONS FOR DESIGNATION.—For purposes of this title, a Medicare+Choice area (which is a metropolitan statistical area or other area with a substantial number of Medicare+Choice enrollees) may not be designated as a 'competitive-demonstration area' for a 2-year period beginning with a year unless the Administrator determines, by such date before the beginning of the year as the Administrator determines appropriate, that—

''(i) there will be offered during the open enrollment period under this part before the beginning of the year at least 2 Medicare+Choice plans (in addition to the fee-for-service program under parts A and B), each offered by a different Medicare+Choice organization; and

''(ii) during March of the previous year at least 50 percent of the number of Medicare+Choice eligible individuals who reside in the area were enrolled in a Medicare+Choice plan.

''(2) CHOICE NON-DRUG BENCHMARK AMOUNT.—For purposes of this part, the term 'choice non-drug benchmark amount' means, with respect to a Medicare+Choice payment area for a month in a year, the sum of the 2 components described in paragraph (3) for the area and year. The Administrator shall compute such benchmark amount for each competitive-demonstration area before the beginning of each annual, coordinated election period under section 1851(e)(3)(B) for each year (beginning with 2005) in which it is designated as such an area.

''(3) 2 COMPONENTS.—For purposes of paragraph (2), the 2 components described in this paragraph for an area and a year are the following:

''(A) FEE-FOR-SERVICE COMPONENT WEIGHTED BY NATIONAL FEE-FOR-SERVICE MARKET SHARE.—The product of the following:

''(i) NATIONAL FEE-FOR-SERVICE MARKET SHARE.—The national fee-for-service market share percentage (determined under paragraph (5)) for the year.

''(ii) FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BID.—The fee-for-service area-specific non-drug bid (as defined in paragraph (6)) for the area and year.

''(B) M+C COMPONENT WEIGHTED BY NATIONAL MEDICARE+CHOICE MARKET SHARE.—The product of the following:

''(i) NATIONAL MEDICARE+CHOICE MARKET SHARE.—1 minus the national fee-for-service market share percentage for the year.

''(ii) WEIGHTED AVERAGE OF PLAN BIDS IN AREA.—The weighted average of the plan bids for the area and year (as determined under paragraph (4)(A)).

''(4) DETERMINATION OF WEIGHTED AVERAGE BIDS FOR AN AREA.—

''(A) IN GENERAL.—For purposes of paragraph (3)(B)(ii), the weighted average of plan bids for an area and a year is the sum of the following products for Medicare+Choice plans described in subparagraph (C) in the area and year:

''(i) PROPORTION OF EACH PLAN'S ENROLLEES IN THE AREA.—The number of individuals described in subparagraph (B), divided by the total number of such individuals for all Medicare+Choice plans described in subparagraph (C) for that area and year.

''(ii) MONTHLY NON-DRUG BID AMOUNT.—The unadjusted non-drug monthly bid amount.

''(B) COUNTING OF INDIVIDUALS.—The Administrator shall count, for each Medicare+Choice plan described in subparagraph (C) for an area and year, the number of individuals who reside in the area and who were enrolled under such plan under this part during March of the previous year.

''(C) EXCLUSION OF PLANS NOT OFFERED IN PREVIOUS YEAR.—For an area and year, the Medicare+Choice plans described in this subparagraph are plans that are offered in the area and year and were offered in the area in March of the previous year.

''(5) COMPUTATION OF NATIONAL FEE-FOR-SERVICE MARKET SHARE PERCENTAGE.—The Administrator shall determine, for a year, the proportion (in this subsection referred to as the 'national fee-for-service market share percentage') of Medicare+Choice eligible individuals who during March of the previous year were not enrolled in a Medicare+Choice plan.

''(6) FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BID.—For purposes of this part, the term 'fee-for-service area-specific non-drug bid' means, for an area and year, the amount described in section 1853(j)(1) for the area and year, except that any reference to a percent of less than 100 percent shall be deemed a reference to 100 percent.''.

(b) APPLICATION OF CHOICE NON-DRUG BENCHMARK IN COMPETITIVE-DEMONSTRATION AREAS.—

(1) IN GENERAL.—Section 1854 is amended—

(A) in subsection (b)(1)(C)(i), as added by section 211(b)(1)(A), by striking ''(i) REQUIREMENT.—The'' and inserting ''(i) REQUIREMENT FOR NON-COMPETITIVE-DEMONSTRATION AREAS.—In the case of a Medicare+Choice payment area that is not a competitive-demonstration area designated under section 1853(k)(1), the'';

(B) in subsection (b)(1)(C), as so added, by inserting after clause (i) the following new clause:

''(ii) REQUIREMENT FOR COMPETITIVE-DEMONSTRATION AREAS.—In the case of a Medicare+Choice payment area that is designated as a competitive-demonstration area under section 1853(k)(1), if there are average per capita monthly savings described in paragraph (4) for a Medicare+Choice plan and year, the Medicare+Choice plan shall provide to the enrollee a monthly rebate equal to 75 percent of such savings.'';

(C) by adding at the end of subsection (b), as amended by section 211(b)(1), the following new paragraph:

''(4) COMPUTATION OF AVERAGE PER CAPITA MONTHLY SAVINGS FOR COMPETITIVE-DEMONSTRATION AREAS.—For purposes of paragraph (1)(C)(ii), the average per capita monthly savings referred to in such paragraph for a Medicare+Choice plan and year shall be computed in the same manner as the average per capita monthly savings is computed under paragraph (3) except that the reference to the fee-for-service area-specific non-drug benchmark amount in paragraph (3)(B)(i) (or to the benchmark amount as adjusted under paragraph (3)(C)(i)) is deemed to be a reference to the choice non-drug benchmark amount (or such amount as adjusted in the manner described in paragraph (3)(B)(i)).''; and

(D) in subsection (d), as amended by section 211(d)(4), by inserting ''and subsection (b)(1)(D)'' after ''subsection (b)(1)(C)''.

(2) CONFORMING AMENDMENTS.—

(A) PAYMENT OF PLANS.—Section 1853(a)(1)(A)(ii), as amended by section 211(c)(1), is amended—

(i) in subclause (I), by inserting ''(or, in the case of a competitive-demonstration area, the choice non-drug benchmark amount)'' after ''unadjusted non-drug monthly bid amount''; and

(ii) in subclauses (I) and (II), by inserting ''(or, in the case of a competitive-demonstration area, described in section 1854(b)(4))'' after ''section 1854(b)(3)(C)''.

(B) DEFINITION OF MONTHLY BASIC PREMIUM.—Section 1854(b)(2)(A)(ii), as amended by section 211(d)(2), is amended by inserting ''(or, in the case of a competitive-demonstration area, the choice non-drug benchmark amount)'' after ''benchmark amount''.

(c) PREMIUM ADJUSTMENT.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

''(h)(1) In the case of an individual who resides in a competitive-demonstration area designated under section 1851(k)(1) and who is not enrolled in a Medicare+Choice plan under part C, the monthly premium otherwise applied under this part (determined without regard to subsections (b) and (f) or any adjustment under this subsection) shall be adjusted as follows: If the fee-for-service area-specific non-drug bid (as defined in section 1853(k)(6)) for the Medicare+Choice area in which the individual resides for a month—

''(A) does not exceed the choice non-drug benchmark (as determined under section 1853(k)(2)) for such area, the amount of the premium for the individual for the month shall be reduced by an amount equal to 75 percent of the amount by which such benchmark exceeds such fee-for-service bid; or

''(B) exceeds such choice non-drug benchmark, the amount of the premium for the individual for the month shall be adjusted to ensure that—

''(i) the sum of the amount of the adjusted premium and the choice non-drug benchmark for the area, is equal to

''(ii) the sum of the unadjusted premium plus amount of the fee-for-service area-specific non-drug bid for the area.

''(2) Nothing in this subsection shall be construed as preventing a reduction under paragraph (1)(A) in the premium otherwise applicable under this part to zero or from requiring the provision of a rebate to the extent such premium would otherwise be required to be less than zero.

''(3) The adjustment in the premium under this subsection shall be effected in such manner as the Medicare Benefits Administrator determines appropriate.

''(4) In order to carry out this subsection (insofar as it is effected through the manner of collection of premiums under 1840(a)), the Medicare Benefits Administrator shall transmit to the Commissioner of Social Security—

''(A) at the beginning of each year, the name, social security account number, and the amount of the adjustment (if any) under this subsection for each individual enrolled under this part for each month during the year; and

''(B) periodically throughout the year, information to update the information previously transmitted under this paragraph for the year.''.

(d) CONFORMING AMENDMENT.—Section 1844(c) (42 U.S.C. 1395w(c)) is amended by inserting ''and without regard to any premium adjustment effected under section 1839(h)'' before the period at the end.

(e) REPORT ON DEMONSTRATION PROGRAM.—Not later than 6 months after the date on which the designation of the 4th competitive-demonstration area under section 1851(k)(1) of the Social Security Act ends, the Medicare Payment Advisory Commission shall submit to Congress a report on the impact of the demonstration program under the amendments made by this section, including such impact on premiums of medicare beneficiaries, savings to the medicare program, and on adverse selection.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and premiums for periods beginning on or after January 1, 2005.

SEC. 213. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS RELATING TO BIDS.—

(1) Section 1854 (42 U.S.C. 1395w–24) is amended—

(A) in the heading of subsection (a), by inserting ''AND BID AMOUNTS'' after ''PREMIUMS''; and

(B) in subsection (a)(5)(A), by inserting ''paragraphs (2), (3), and (4) of'' after ''filed under''.

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) ANNUAL DETERMINATION AND ANNOUNCEMENT OF CERTAIN FACTORS.—Section 1853(b) (42 U.S.C. 1395w–23(b)) is amended—

(A) in paragraph (1), by striking ''the respective calendar year'' and all that follows and inserting the following: ''the calendar year concerned with respect to each Medicare+Choice payment area, the following:

''(A) PRE-COMPETITION INFORMATION.—For years before 2005, the following:

''(i) MEDICARE+CHOICE CAPITATION RATES.—The annual Medicare+Choice capitation rate for each Medicare+Choice payment area for the year.

''(ii) ADJUSTMENT FACTORS.—The risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

''(B) COMPETITION INFORMATION.—For years beginning with 2005, the following:

''(i) BENCHMARKS.—The fee-for-service area-specific non-drug benchmark under section 1853(j) and, if applicable, the choice non-drug benchmark under section 1853(k)(2), for the year involved and, if applicable, the national fee-for-service market share percentage.

''(ii) ADJUSTMENT FACTORS.—The adjustment factors applied under section 1853(a)(1)(A)(iii) (relating to demographic adjustment), section 1853(a)(1)(B) (relating to adjustment for end-stage renal disease), and section 1853(a)(3) (relating to health status adjustment).

''(iii) PROJECTED FEE-FOR-SERVICE BID.—In the case of a competitive area, the projected fee-for-service area-specific non-drug bid (as determined under subsection (k)(6)) for the area.

''(iv) INDIVIDUALS.—The number of individuals counted under subsection (k)(4)(B) and enrolled in each Medicare+Choice plan in the area.''; and

(B) in paragraph (3), by striking ''in sufficient detail'' and all that follows up to the period at the end.

(2) REPEAL OF PROVISIONS RELATING TO ADJUSTED COMMUNITY RATE (ACR).—

(A) IN GENERAL.—Subsections (e) and (f) of section 1854 (42 U.S.C. 1395w–24) are repealed.

(B) CONFORMING AMENDMENT.—Section 1839(a)(2) (42 U.S.C. 1395r(a)(2)) is amended by striking '', and to reflect'' and all that follows and inserting a period.

(3) PROSPECTIVE IMPLEMENTATION OF NATIONAL COVERAGE DETERMINATIONS.—Section 1852(a)(5) (42 U.S.C. 1395w–22(a)(5)) is amended to read as follows:

''(5) PROSPECTIVE IMPLEMENTATION OF NATIONAL COVERAGE DETERMINATIONS.—The Secretary shall only implement a national coverage determination that will result in a significant change in the costs to a Medicare+Choice organization in a prospective manner that applies to announcements made under section 1853(b) after the date of the implementation of the determination.''.

(4) PERMITTING GEOGRAPHIC ADJUSTMENT TO CONSOLIDATE MULTIPLE MEDICARE+CHOICE PAYMENT AREAS IN A STATE INTO A SINGLE STATEWIDE MEDICARE+CHOICE PAYMENT AREA.—Section 1853(d)(3) (42 U.S.C. 1395w–23(e)(3)) is amended—

(A) by amending clause (i) of subparagraph (A) to read as follows:

''(i) to a single statewide Medicare+Choice payment area,''; and

(B) by amending subparagraph (B) to read as follows:

''(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Medicare Benefits Administrator shall initially (and annually thereafter) adjust the payment rates otherwise established under this section for Medicare+Choice payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for Medicare+Choice payment areas in the State in the absence of the adjustment under this paragraph.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and premiums for periods beginning on or after January 1, 2005.

TITLE III—RURAL HEALTH CARE IMPROVEMENTS

SEC. 301. REFERENCE TO FULL MARKET BASKET INCREASE FOR SOLE COMMUNITY HOSPITALS.

For provision eliminating any reduction from full market basket in the update for inpatient hospital services for sole community hospitals, see section 401.

SEC. 302. ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) TREATMENT FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

(a) BLENDING OF PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended by adding at the end the following new clause:

''(xiv)(I) In the case of discharges in a fiscal year beginning on or after October 1, 2002, subject to subclause (II), there shall be substituted for the disproportionate share adjustment percentage otherwise determined under clause (iv) (other than subclause (I)) or under clause (viii), (x), (xi), (xii), or (xiii), the old blend proportion (specified under subclause (III)) of the disproportionate share adjustment percentage otherwise determined under the respective clause and 100 percent minus such old blend proportion of the disproportionate share adjustment percentage determined under clause (vii) (relating to large, urban hospitals).

''(II) Under subclause (I), the disproportionate share adjustment percentage shall not exceed 10 percent for a hospital that is not classified as a rural referral center under subparagraph (C).

''(III) For purposes of subclause (I), the old blend proportion for fiscal year 2003 is 80 percent, for each subsequent year (through 2006) is the old blend proportion under this subclause for the previous year minus 20 percentage points, and for each year beginning with 2007 is 0 percent.''.

(2) CONFORMING AMENDMENTS.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in each of subclauses (II), (III), (IV), (V), and (VI) of clause (iv), by inserting ''subject to clause (xiv) and'' before ''for discharges occurring'';

(B) in clause (viii), by striking ''The formula'' and inserting ''Subject to clause (xiv), the formula''; and

(C) in each of clauses (x), (xi), (xii), and (xiii), by striking ''For purposes'' and inserting ''Subject to clause (xiv), for purposes''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to discharges occurring on or after October 1, 2002.

SEC. 303. 2-YEAR PHASED-IN INCREASE IN THE STANDARDIZED AMOUNT IN RURAL AND SMALL URBAN AREAS TO ACHIEVE A SINGLE, UNIFORM STANDARDIZED AMOUNT.

Section 1886(d)(3)(A)(iv) (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(1) by striking ''(iv) For discharges'' and inserting ''(iv)(I) Subject to the succeeding provisions of this clause, for discharges''; and

(2) by adding at the end the following new subclauses:

''(II) For discharges occurring during fiscal year 2003, the average standardized amount for hospitals located other than in a large urban area shall be increased by ½ of the difference between the average standardized amount determined under subclause (I) for hospitals located in large urban areas for such fiscal year and such amount determined (without regard to this subclause) for other hospitals for such fiscal year.

''(III) For discharges occurring in a fiscal year beginning with fiscal year 2004, the Secretary shall compute an average standardized amount for hospitals located in any area within the United States and within each region equal to the average standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2005, for hospitals located in any area) increased by the applicable percentage increase under subsection (b)(3)(B)(i).''.

SEC. 304. MORE FREQUENT UPDATE IN WEIGHTS USED IN HOSPITAL MARKET BASKET.

(a) MORE FREQUENT UPDATES IN WEIGHTS.—After revising the weights used in the hospital market basket under section 1886(b)(3)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(iii)) to reflect the most current data available, the Secretary shall establish a frequency for revising such weights in such market basket to reflect the most current data available more frequently than once every 5 years.

(b) REPORT.—Not later than October 1, 2003, the Secretary shall submit a report to Congress on the frequency established under subsection (a), including an explanation of the reasons for, and options considered, in determining such frequency.

SEC. 305. IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

(a) REINSTATEMENT OF PERIODIC INTERIM PAYMENT (PIP).—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (C);

(2) by adding ''and'' at the end of subparagraph (D); and

(3) by inserting after subparagraph (D) the following new subparagraph:

''(E) inpatient critical access hospital services;''.

(b) CONDITION FOR APPLICATION OF SPECIAL PHYSICIAN PAYMENT ADJUSTMENT.—Section 1834(g)(2) (42 U.S.C. 1395m(g)(2)) is amended by adding after and below subparagraph (B) the following:

''The Secretary may not require, as a condition for applying subparagraph (B) with respect to a critical access hospital, that each physician providing professional services in the hospital must assign billing rights with respect to such services, except that such subparagraph shall not apply to those physicians who have not assigned such billing rights.''.

(c) FLEXIBILITY IN BED LIMITATION FOR HOSPITALS.—Section 1820 (42 U.S.C. 1395i–4) is amended—

(1) in subsection (c)(2)(B)(iii), by inserting ''subject to paragraph (3)'' after ''(iii) provides'';

(2) by adding at the end of subsection (c) the following new paragraph:

''(3) INCREASE IN MAXIMUM NUMBER OF BEDS FOR HOSPITALS WITH STRONG SEASONAL CENSUS FLUCTUATIONS.—

''(A) IN GENERAL.—Subject to subparagraph (C), in the case of a hospital that demonstrates that it meets the standards established under subparagraph (B) and has not made the election described in subsection (f)(2)(A), the bed limitations otherwise applicable under paragraph (2)(B)(iii) and subsection (f) shall be increased by 5 beds.

''(B) STANDARDS.—The Secretary shall specify standards for determining whether a critical access hospital has sufficiently strong seasonal variations in patient admissions to justify the increase in bed limitation provided under subparagraph (A).''; and

(3) in subsection (f)—

(A) by inserting ''(1)'' after ''(f)''; and

(B) by adding at the end the following new paragraph:

''(2)(A) A hospital may elect to treat the reference in paragraph (1) to '15 beds' as a reference to '25 beds', but only if no more than 10 beds in the hospital are at any time used for non-acute care services. A hospital that makes such an election is not eligible for the increase provided under subsection (c)(3)(A).

''(B) The limitations in numbers of beds under the first sentence of paragraph (1) are subject to adjustment under subsection (c)(3).''.

(d) 5-YEAR EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS FOR GRANT PROGRAM.—Section 1820(j) (42 U.S.C. 1395i–4(j)) is amended by striking ''through 2002'' and inserting ''through 2007''.

(e) PROHIBITION OF RETROACTIVE RECOUPMENT.—The Secretary shall not recoup (or otherwise seek to recover) overpayments made for outpatient critical access hospital services under part B of title XVIII of the Social Security Act, for services furnished in cost reporting periods that began before October 1, 2002, insofar as such overpayments are attributable to payment being based on 80 percent of reasonable costs (instead of 100 percent of reasonable costs minus 20 percent of charges).

(f) EFFECTIVE DATES.—

(1) REINSTATEMENT OF PIP.—The amendments made by subsection (a) shall apply to payments made on or after January 1, 2003.

(2) PHYSICIAN PAYMENT ADJUSTMENT CONDITION.—The amendment made by subsection (b) shall be effective as if included in the enactment of section 403(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–371).

(3) FLEXIBILITY IN BED LIMITATION.—The amendments made by subsection (c) shall apply to designations made on or after January 1, 2003, but shall not apply to critical access hospitals that were designated as of such date.

SEC. 306. EXTENSION OF TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 508(a) BIPA (114 Stat. 2763A–533) is amended—

(1) by striking ''24-MONTH INCREASE BEGINNING APRIL 1, 2001'' and inserting ''IN GENERAL''; and

(2) by striking ''April 1, 2003'' and inserting ''January 1, 2005''.

(b) CONFORMING AMENDMENT.—Section 547(c)(2) of BIPA (114 Stat. 2763A–553) is amended by striking ''the period beginning on April 1, 2001, and ending on September 30, 2002,'' and inserting ''a period under such section''.

SEC. 307. REFERENCE TO 10 PERCENT INCREASE IN PAYMENT FOR HOSPICE CARE FURNISHED IN A FRONTIER AREA AND RURAL HOSPICE DEMONSTRATION PROJECT.

For—

(1) provision of 10 percent increase in payment for hospice care furnished in a frontier area, see section 422; and

(2) provision of a rural hospice demonstration project, see section 423.

SEC. 308. REFERENCE TO PRIORITY FOR HOSPITALS LOCATED IN RURAL OR SMALL URBAN AREAS IN REDISTRIBUTION OF UNUSED GRADUATE MEDICAL EDUCATION RESIDENCIES.

For provision providing priority for hospitals located in rural or small urban areas in redistribution of unused graduate medical education residencies, see section 612.

SEC. 309. GAO STUDY OF GEOGRAPHIC DIFFERENCES IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of differences in payment amounts under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for physicians' services in different geographic areas. Such study shall include—

(1) an assessment of the validity of the geographic adjustment factors used for each component of the fee schedule;

(2) an evaluation of the measures used for such adjustment, including the frequency of revisions; and

(3) an evaluation of the methods used to determine professional liability insurance costs used in computing the malpractice component, including a review of increases in professional liability insurance premiums and variation in such increases by State and physician specialty and methods used to update the geographic cost of practice index and relative weights for the malpractice component.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a). The report shall include recommendations regarding the use of more current data in computing geographic cost of practice indices as well as the use of data directly representative of physicians' costs (rather than proxy measures of such costs).

SEC. 310. PROVIDING SAFE HARBOR FOR CERTAIN COLLABORATIVE EFFORTS THAT BENEFIT MEDICALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7(b)(3)), as amended by section 101(b)(2), is amended—

(1) in subparagraph (F), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(H) any remuneration between a public or nonprofit private health center entity described under clause (i) or (ii) of section 1905(1)(2)(B) and any individual or entity providing goods, items, services, donations or loans, or a combination thereof, to such health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center entity.''.

(b) RULEMAKING FOR EXCEPTION FOR HEALTH CENTER ENTITY ARRANGEMENTS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall establish,

on an expedited basis, standards relating to the exception described in section 1128B(b)(3)(H) of the Social Security Act, as added by subsection (a), for health center entity arrangements to the antikickback penalties.

(B) FACTORS TO CONSIDER.—The Secretary shall consider the following factors, among others, in establishing standards relating to the exception for health center entity arrangements under subparagraph (A):

(i) Whether the arrangement between the health center entity and the other party results in savings of Federal grant funds or increased revenues to the health center entity.

(ii) Whether the arrangement between the health center entity and the other party restricts or limits a patient's freedom of choice.

(iii) Whether the arrangement between the health center entity and the other party protects a health care professional's independent medical judgment regarding medically appropriate treatment.

The Secretary may also include other standards and criteria that are consistent with the intent of Congress in enacting the exception established under this section.

(2) INTERIM FINAL EFFECT.—No later than 180 days after the date of enactment of this Act, the Secretary shall publish a rule in the Federal Register consistent with the factors under paragraph (1)(B). Such rule shall be effective and final immediately on an interim basis, subject to such change and revision, after public notice and opportunity (for a period of not more than 60 days) for public comment, as is consistent with this subsection.

SEC. 311. RELIEF FOR CERTAIN NON-TEACHING HOSPITALS.

(a) IN GENERAL.—In the case of a non-teaching hospital that meets the condition of subsection (b), in each of fiscal years 2003, 2004, and 2005 the amount of payment made to the hospital under section 1886(d) of the Social Security Act for discharges occurring during such fiscal year only shall be increased as though the applicable percentage increase (otherwise applicable to discharges occurring during such fiscal year under section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) had been increased by 5 percentage points. The previous sentence shall be applied for each such fiscal year separately without regard to its application in a previous fiscal year and shall not affect payment for discharges for any hospital occurring during a fiscal year after fiscal year 2005.

(b) CONDITION.—A non-teaching hospital meets the condition of this subsection if—

(1) it is located in a rural area and the amount of the aggregate payments under subsection (d) of section 1886 of the Social Security Act for hospitals located in rural areas in the State for their cost reporting periods beginning during fiscal year 1999 is less than the aggregate allowable operating costs of inpatient hospital services (as defined in subsection (a)(4) of such section) for all subsection (d) hospitals in such areas in such State with respect to such cost reporting periods; or

(2) it is located in an urban area and the amount of the aggregate payments under subsection (d) of such section for hospitals located in urban areas in the State for their cost reporting periods beginning during fiscal year 1999 is less than 103 percent of the aggregate allowable operating costs of inpatient hospital services (as defined in subsection (a)(4) of such section) for all subsection (d) hospitals in such areas in such State with respect to such cost reporting periods.

The amounts under paragraphs (1) and (2) shall be determined by the Secretary of Health and Human Services based on data of the Medicare Payment Advisory Commission.

(c) DEFINITIONS.—For purposes of this section:

(1) NON-TEACHING HOSPITAL.—The term ''non-teaching hospital'' means, for a cost reporting period, a subsection (d) hospital (as defined in subsection (d)(1)(B) of section 1886 of the Social Security Act, 42 U.S.C. 1395ww)) that is not receiving any additional payment under subsection (d)(5)(B) of such section or a payment under subsection (h) of such section for discharges occurring during the period. A subsection (d) hospital that receives additional payments under subsection (d)(5)(B) or (h) of such section shall, for purposes of this section, also be treated as a non-teaching hospital unless a chairman of a department in the medical school with which the hospital is affiliated is serving or has been appointed as a clinical chief of service in the hospital.

(2) RURAL; URBAN.—The terms ''rural'' and ''urban'' have the meanings given such terms for purposes of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)).

TITLE IV—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

SEC. 401. REVISION OF ACUTE CARE HOSPITAL PAYMENT UPDATES.

Subclause (XVIII) of section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended to read as follows:

''(XVIII) for fiscal year 2003, the market basket percentage increase for sole community hospitals and such increase minus 0.25 percentage points for other hospitals, and''.

SEC. 402. 2-YEAR INCREASE IN LEVEL OF ADJUSTMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION (IME).

Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI) by striking ''and'' at the end;

(2) by redesignating subclause (VII) as subclause (IX);

(3) in subclause (IX) as so redesignated, by striking ''2002'' and inserting ''2004''; and

(4) by inserting after subclause (VI) the following new subclause:

''(VII) during fiscal year 2003, 'c' is equal to 1.47;

''(VIII) during fiscal year 2004, 'c' is equal to 1.45; and''.

SEC. 403. RECOGNITION OF NEW MEDICAL TECHNOLOGIES UNDER INPATIENT HOSPITAL PPS.

(a) IMPROVING TIMELINESS OF DATA COLLECTION.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is amended by adding at the end the following new clause:

''(vii) Under the mechanism under this subparagraph, the Secretary shall provide for the addition of new diagnosis and procedure codes in April 1 of each year, but the addition of such codes shall not require the Secretary to adjust the payment (or diagnosis-related group classification) under this subsection until the fiscal year that begins after such date.''.

(b) ELIGIBILITY STANDARD.—

(1) MINIMUM PERIOD FOR RECOGNITION OF NEW TECHNOLOGIES.—Section 1886(d)(5)(K)(vi) (42 U.S.C. 1395ww(d)(5)(K)(vi)) is amended—

(A) by inserting ''(I)'' after ''(vi)''; and

(B) by adding at the end the following new subclause:

''(II) Under such criteria, a service or technology shall not be denied treatment as a new service or technology on the basis of the period of time in which the service or technology has been in use if such period ends before the end of the 2-to-3-year period that begins on the effective date of implementation of a code under ICD–9–CM (or a successor coding methodology) that enables the identification of a significant sample of specific discharges in which the service or technology has been used.''.

(2) ADJUSTMENT OF THRESHOLD.—Section 1886(d)(5)(K)(ii)(I) (42 U.S.C. 1395ww(d)(5)(K)(ii)(I)) is amended by inserting ''(applying a threshold specified by the Secretary that is the lesser of 50 percent of the national average standardized amount for operating costs of inpatient hospital services for all hospitals and all diagnosis-related groups or one standard deviation for the diagnosis-related group involved)'' after ''is inadequate''.

(3) CRITERION FOR SUBSTANTIAL IMPROVEMENT.—Section 1886(d)(5)(K)(vi) (42 U.S.C. 1395ww(d)(5)(K)(vi)), as amended by paragraph (1), is further amended by adding at the end the following subclause:

''(III) The Secretary shall by regulation provide for further clarification of the criteria applied to determine whether a new service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries. Under such criteria, in determining whether a new service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries, the Secretary shall deem a service or technology as meeting such requirement if the service or technology is a drug or biological that is designated under section 506 or 526 of the Federal Food, Drug, and Cosmetic Act, approved under section 314.510 or 601.41 of title 21, Code of Federal Regulations, or designated for priority review when the marketing application for such drug or biological was filed or is a medical device for which an exemption has been granted under section 520(m) of such Act, or for which priority review has been provided under section 515(d)(5) of such Act.''.

(4) PROCESS FOR PUBLIC INPUT.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)), as amended by paragraph (1), is amended—

(A) in clause (i), by adding at the end the following: ''Such mechanism shall be modified to meet the requirements of clause (viii).''; and

(B) by adding at the end the following new clause:

''(viii) The mechanism established pursuant to clause (i) shall be adjusted to provide, before publication of a proposed rule, for public input regarding whether a new service or technology not described in the second sentence of clause (vi)(III) represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries as follows:

''(I) The Secretary shall make public and periodically update a list of all the services and technologies for which an application for additional payment under this subparagraph is pending.

''(II) The Secretary shall accept comments, recommendations, and data from the public regarding whether the service or technology represents a substantial improvement.

''(III) The Secretary shall provide for a meeting at which organizations representing hospitals, physicians, medicare beneficiaries, manufacturers, and any other interested party may present comments, recommendations, and data to the clinical staff of the Centers for Medicare & Medicaid Services before publication of a notice of proposed rulemaking regarding whether service or technology represents a substantial improvement.''.

(c) PREFERENCE FOR USE OF DRG ADJUSTMENT.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is further amended by adding at the end the following new clause:

''(ix) Before establishing any add-on payment under this subparagraph with respect

to a new technology, the Secretary shall seek to identify one or more diagnosis-related groups associated with such technology, based on similar clinical or anatomical characteristics and the cost of the technology. Within such groups the Secretary shall assign an eligible new technology into a diagnosis-related group where the average costs of care most closely approximate the costs of care of using the new technology. In such case, no add-on payment under this subparagraph shall be made with respect to such new technology and this clause shall not affect the application of paragraph (4)(C)(iii).''.

(d) IMPROVEMENT IN PAYMENT FOR NEW TECHNOLOGY.—Section 1886(d)(5)(K)(ii)(III) (42 U.S.C. 1395ww(d)(5)(K)(ii)(III)) is amended by inserting after ''the estimated average cost of such service or technology'' the following: ''(based on the marginal rate applied to costs under subparagraph (A))''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The Secretary shall implement the amendments made by this section so that they apply to classification for fiscal years beginning with fiscal year 2004.

(2) RECONSIDERATIONS OF APPLICATIONS FOR FISCAL YEAR 2003 THAT ARE DENIED.—In the case of an application for a classification of a medical service or technology as a new medical service or technology under section 1886(d)(5)(K) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(K)) that was filed for fiscal year 2003 and that is denied—

(A) the Secretary shall automatically reconsider the application as an application for fiscal year 2004 under the amendments made by this section; and

(B) the maximum time period otherwise permitted for such classification of the service or technology shall be extended by 12 months.

SEC. 404. PHASE-IN OF FEDERAL RATE FOR HOSPITALS IN PUERTO RICO.

Section 1886(d)(9) (42 U.S.C. 1395ww(d)(9)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ''for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)'' and inserting ''the applicable Puerto Rico percentage (specified in subparagraph (E))''; and

(B) in clause (ii), by striking ''for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 25 percent)'' and inserting ''the applicable Federal percentage (specified in subparagraph (E))''; and

(2) by adding at the end the following new subparagraph:

''(E) For purposes of subparagraph (A), for discharges occurring—

''(i) between October 1, 1987, and September 30, 1997, the applicable Puerto Rico percentage is 75 percent and the applicable Federal percentage is 25 percent;

''(ii) on or after October 1, 1997, and before October 1, 2003, the applicable Puerto Rico percentage is 50 percent and the applicable Federal percentage is 50 percent;

''(iii) during fiscal year 2004, the applicable Puerto Rico percentage is 45 percent and the applicable Federal percentage is 55 percent;

''(iv) during fiscal year 2005, the applicable Puerto Rico percentage is 40 percent and the applicable Federal percentage is 60 percent;

''(v) during fiscal year 2006, the applicable Puerto Rico percentage is 35 percent and the applicable Federal percentage is 65 percent;

''(vi) during fiscal year 2007, the applicable Puerto Rico percentage is 30 percent and the applicable Federal percentage is 70 percent; and

''(vii) on or after October 1, 2007, the applicable Puerto Rico percentage is 25 percent and the applicable Federal percentage is 75 percent.''.

SEC. 405. REFERENCE TO PROVISION RELATING TO ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

For provision enhancing disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds, see section 302.

SEC. 406. REFERENCE TO PROVISION RELATING TO 2-YEAR PHASED-IN INCREASE IN THE STANDARDIZED AMOUNT IN RURAL AND SMALL URBAN AREAS TO ACHIEVE A SINGLE, UNIFORM STANDARDIZED AMOUNT.

For provision phasing in over a 2-year period an increase in the standardized amount for rural and small urban areas to achieve a single, uniform, standardized amount, see section 303.

SEC. 407. REFERENCE TO PROVISION FOR MORE FREQUENT UPDATES IN THE WEIGHTS USED IN HOSPITAL MARKET BASKET.

For provision providing for more frequent updates in the weights used in hospital market basket, see section 304.

SEC. 408. REFERENCE TO PROVISION MAKING IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

For provision providing making improvements to critical access hospital program, see section 305.

SEC. 409. GAO STUDY ON IMPROVING THE HOSPITAL WAGE INDEX.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the improvements that can be made in the measurement of regional differences in hospital wages reflected in the hospital wage index under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)).

(2) EXAMINATION OF USE OF METROPOLITAN STATISTICAL AREAS (MSAS).—The study shall specifically examine the use of metropolitan statistical areas for purposes of computing and applying the wage index and whether the boundaries of such areas accurately reflect local labor markets. In addition, the study shall examine whether regional inequities are created as a result of infrequent updates of such boundaries and policies of the Bureau of the Census relating to commuting criteria.

(3) WAGE DATA.—The study shall specifically examine the portions of the hospital cost reports relating to wages, and methods for improving the accuracy of the wage data and for reducing inequities resulting from differences among hospitals in the reporting of wage data.

(b) CONSULTATION WITH OMB.—The Comptroller General shall consult with the Director of Office of Management and Budget in conducting the study under subsection (a)(2).

(c) REPORT.—Not later than May 1, 2003, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a) and shall include in the report such recommendations as may be appropriate on—

(1) changes in the definition of labor market areas used for purposes of the area wage index under section 1886 of the Social Security Act; and

(2) improvements in methods for the collection of wage data.

Subtitle B—Skilled Nursing Facility Services

SEC. 411. PAYMENT FOR COVERED SKILLED NURSING FACILITY SERVICES.

(a) TEMPORARY INCREASE IN NURSING COMPONENT OF PPS FEDERAL RATE.—Section 312(a) of BIPA is amended by adding at the end the following new sentence: ''The Secretary of Health and Human Services shall increase by 12, 10, and 8 percent the nursing component of the case-mix adjusted Federal prospective payment rate specified in Tables 3 and 4 of the final rule published in the Federal Register by the Health Care Financing Administration on July 31, 2000 (65 Fed. Reg. 46770) and as subsequently updated under section 1888(e)(4)(E)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(4)(E)(ii)), effective for services furnished during fiscal years 2003, 2004, and 2005, respectively.''.

(b) ADJUSTMENT TO RUGS FOR AIDS RESIDENTS.—

(1) IN GENERAL.—Paragraph (12) of section 1888(e) (42 U.S.C. 1395yy(e)) is amended to read as follows:

''(12) ADJUSTMENT FOR RESIDENTS WITH AIDS.—

''(A) IN GENERAL.—Subject to subparagraph (B), in the case of a resident of a skilled nursing facility who is afflicted with acquired immune deficiency syndrome (AIDS), the per diem amount of payment otherwise applicable shall be increased by 128 percent to reflect increased costs associated with such residents.

''(B) SUNSET.—Subparagraph (A) shall not apply on and after such date as the Secretary certifies that there is an appropriate adjustment in the case mix under paragraph (4)(G)(i) to compensate for the increased costs associated with residents described in such subparagraph.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after October 1, 2003.

Subtitle C—Hospice

SEC. 421. COVERAGE OF HOSPICE CONSULTATION SERVICES.

(a) COVERAGE OF HOSPICE CONSULTATION SERVICES.—Section 1812(a) (42 U.S.C. 1395d(a)) is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(3) by inserting after paragraph (4) the following new paragraph:

''(5) for individuals who are terminally ill, have not made an election under subsection (d)(1), and have not previously received services under this paragraph, services that are furnished by a physician who is either the medical director or an employee of a hospice program and that consist of—

''(A) an evaluation of the individual's need for pain and symptom management;

''(B) counseling the individual with respect to end-of-life issues and care options; and

''(C) advising the individual regarding advanced care planning.''.

(b) PAYMENT.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

''(4) The amount paid to a hospice program with respect to the services under section 1812(a)(5) for which payment may be made under this part shall be equal to an amount equivalent to the amount established for an office or other outpatient visit for evaluation and management associated with presenting problems of moderate severity under the fee schedule established under section 1848(b), other than the portion of such amount attributable to the practice expense component.''.

(c) CONFORMING AMENDMENT.—Section 1861(dd)(2)(A)(i) (42 U.S.C. 1395x(dd)(2)(A)(i)) is amended by inserting before the comma at the end the following: ''and services described in section 1812(a)(5)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services provided by a hospice program on or after January 1, 2004.

SEC. 422. 10 PERCENT INCREASE IN PAYMENT FOR HOSPICE CARE FURNISHED IN A FRONTIER AREA.

(a) IN GENERAL.—Section 1814(i)(1) (42 U.S.C. 1395f(i)(1)) is amended by adding at the end the following new subparagraph:

''(D) With respect to hospice care furnished in a frontier area on or after January 1, 2003, and before January 1, 2008, the payment rates otherwise established for such care shall be increased by 10 percent. For purposes of this subparagraph, the term 'frontier area' means a county in which the population density is less than 7 persons per square mile.''.

(b) REPORT ON COSTS.—Not later than January 1, 2007, the Comptroller General of the United States shall submit to Congress a report on the costs of furnishing hospice care in frontier areas. Such report shall include recommendations regarding the appropriateness of extending, and modifying, the payment increase provided under the amendment made by subsection (a).

SEC. 423. RURAL HOSPICE DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary shall conduct a demonstration project for the delivery of hospice care to medicare beneficiaries in rural areas. Under the project medicare beneficiaries who are unable to receive hospice care in the home for lack of an appropriate caregiver are provided such care in a facility of 20 or fewer beds which offers, within its walls, the full range of services provided by hospice programs under section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)).

(b) SCOPE OF PROJECT.—The Secretary shall conduct the project under this section with respect to no more than 3 hospice programs over a period of not longer than 5 years each.

(c) COMPLIANCE WITH CONDITIONS.—Under the demonstration project—

(1) the hospice program shall comply with otherwise applicable requirements, except that it shall not be required to offer services outside of the home or to meet the requirements of section 1861(dd)(2)(A)(iii) of the Social Security Act; and

(2) payments for hospice care shall be made at the rates otherwise applicable to such care under title XVIII of such Act.

The Secretary may require the program to comply with such additional quality assurance standards for its provision of services in its facility as the Secretary deems appropriate.

(d) REPORT.—Upon completion of the project, the Secretary shall submit a report to Congress on the project and shall include in the report recommendations regarding extension of such project to hospice programs serving rural areas.

Subtitle D—Other Provisions

SEC. 431. DEMONSTRATION PROJECT FOR USE OF RECOVERY AUDIT CONTRACTORS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project under this section (in this section referred to as the ''project'') to demonstrate the use of recovery audit contractors under the Medicare Integrity Program in identifying underpayments and overpayments and recouping overpayments under the medicare program for services for which payment is made under part A of title XVIII of the Social Security Act. Under the project—

(1) payment may be made to such a contractor on a contingent basis;

(2) a percentage of the amount recovered may be retained by the Secretary and shall be available to the program management account of the Centers for Medicare & Medicaid Services; and

(3) the Secretary shall examine the efficacy of such use with respect to duplicative payments, accuracy of coding, and other payment policies in which inaccurate payments arise.

(b) SCOPE AND DURATION.—The project shall cover at least 2 States and at least 3 contractors and shall last for not longer than 3 years.

(c) WAIVER.—The Secretary of Health and Human Services shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (a).

(d) QUALIFICATIONS OF CONTRACTORS.—

(1) IN GENERAL.—The Secretary shall enter into a recovery audit contract under this section with an entity only if the entity has staff that has knowledge of and experience with the payment rules and regulations under the medicare program or the entity has or will contract with another entity that has such knowledgeable and experienced staff.

(2) INELIGIBILITY OF CERTAIN CONTRACTORS.—The Secretary may not enter into a recovery audit contract under this section with an entity to the extent that the entity is a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h), a carrier under section 1842 of such Act (42 U.S.C. 1395u), or a Medicare Administrative Contractor under section 1874A of such Act.

(3) PREFERENCE FOR ENTITIES WITH DEMONSTRATED PROFICIENCY WITH PRIVATE INSURERS.—In awarding contracts to recovery audit contractors under this section, the Secretary shall give preference to those entities that the Secretary determines have demonstrated proficiency in recovery audits with private insurers or under the medicaid program under title XIX of such Act.

(e) REPORT.—The Secretary of Health and Human Services shall submit to Congress a report on the project not later than 6 months after the date of its completion. Such reports shall include information on the impact of the project on savings to the medicare program and recommendations on the cost-effectiveness of extending or expanding the project.

TITLE V—PROVISIONS RELATING TO PART B

Subtitle A—Physicians' Services

SEC. 501. REVISION OF UPDATES FOR PHYSICIANS' SERVICES.

(a) UPDATE FOR 2003 THROUGH 2005.—

(1) IN GENERAL.—Section 1848(d) (42 U.S.C. 1395w–4(d)) is amended by adding at the end the following new paragraphs:

''(5) UPDATE FOR 2003.—The update to the single conversion factor established in paragraph (1)(C) for 2003 is 2 percent.

''(6) SPECIAL RULES FOR UPDATE FOR 2004 AND 2005.—The following rules apply in determining the update adjustment factors under paragraph (4)(B) for 2004 and 2005:

''(A) USE OF 2002 DATA IN DETERMINING ALLOWABLE COSTS.—

''(i) The reference in clause (ii)(I) of such paragraph to April 1, 1996, is deemed to be a reference to January 1, 2002.

''(ii) The allowed expenditures for 2002 is deemed to be equal to the actual expenditures for physicians' services furnished during 2002, as estimated by the Secretary.

''(B) 1 PERCENTAGE POINT INCREASE IN GDP UNDER SGR.—The annual average percentage growth in real gross domestic product per capita under subsection (f)(2)(C) for each of 2003, 2004, and 2005 is deemed to be increased by 1 percentage point.''.

(2) CONFORMING AMENDMENT.—Paragraph (4)(B) of such section is amended, in the matter before clause (i), by inserting ''and paragraph (6)'' after ''subparagraph (D)''.

(3) NOT TREATED AS CHANGE IN LAW AND REGULATION IN SUSTAINABLE GROWTH RATE DETERMINATION.—The amendments made by this subsection shall not be treated as a change in law for purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(D)).

(b) USE OF 10-YEAR ROLLING AVERAGE IN COMPUTING GROSS DOMESTIC PRODUCT.—

(1) IN GENERAL.—Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended—

(A) by striking ''projected'' and inserting ''annual average''; and

(B) by striking ''from the previous applicable period to the applicable period involved'' and inserting ''during the 10-year period ending with the applicable period involved''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to computations of the sustainable growth rate for years beginning with 2002.

(c) ELIMINATION OF TRANSITIONAL ADJUSTMENT.—Section 1848(d)(4)(F) (42 U.S.C. 1395w–4(d)(4)(F)) is amended by striking ''subparagraph (A)'' and all that follows and inserting ''subparagraph (A), for each of 2001 and 2002, of −0.2 percent.''

(d) GAO STUDY OF MEDICARE PAYMENT FOR INHALATION THERAPY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study to examine the adequacy of current reimbursements for inhalation therapy under the medicare program.

(2) REPORT.—Not later than May 1, 2003, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 502. STUDIES ON ACCESS TO PHYSICIANS' SERVICES.

(a) GAO STUDY ON BENEFICIARY ACCESS TO PHYSICIANS' SERVICES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on access of medicare beneficiaries to physicians' services under the medicare program. The study shall include—

(A) an assessment of the use by beneficiaries of such services through an analysis of claims submitted by physicians for such services under part B of the medicare program;

(B) an examination of changes in the use by beneficiaries of physicians' services over time;

(C) an examination of the extent to which physicians are not accepting new medicare beneficiaries as patients.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include a determination whether—

(A) data from claims submitted by physicians under part B of the medicare program indicate potential access problems for medicare beneficiaries in certain geographic areas; and

(B) access by medicare beneficiaries to physicians' services may have improved, remained constant, or deteriorated over time.

(b) STUDY AND REPORT ON SUPPLY OF PHYSICIANS.—

(1) STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct a study on the adequacy of the supply of physicians (including specialists) in the United States and the factors that affect such supply.

(2) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the study described in paragraph (1), including any recommendations for legislation.

SEC. 503. MEDPAC REPORT ON PAYMENT FOR PHYSICIANS' SERVICES.

Not later than 1 year after the date of the enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report on the effect of refinements to the practice expense component of payments for physicians' services, after the transition to a full resource-based payment system in 2002, under section 1848 of the Social Security Act (42 U.S.C. 1395w–4). Such report shall examine the following matters by physician specialty:

(1) The effect of such refinements on payment for physicians' services.

(2) The interaction of the practice expense component with other components of and adjustments to payment for physicians' services under such section.

(3) The appropriateness of the amount of compensation by reason of such refinements.

(4) The effect of such refinements on access to care by medicare beneficiaries to physicians' services.

(5) The effect of such refinements on physician participation under the medicare program.

SEC. 504. 1-YEAR EXTENSION OF TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.

Section 542(c) of BIPA is amended by striking ''2-year period'' and inserting ''3-year period''.

SEC. 505. PHYSICIAN FEE SCHEDULE WAGE INDEX REVISION.

(a) INDEX REVISION.—

(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, for purposes of payment under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for physicians' services furnished during 2004, in no case may the work geographic index otherwise calculated under subsection (e)(1)(A)(iii) of such section be less than 0.985.

(2) SECRETARIAL DISCRETION.—Paragraph (1) shall not take effect or be in force if the Secretary determines, taking into account the report of the Comptroller General under subsection (b)(2), that there is no sound economic rationale for the implementation of such paragraph.

(3) EXEMPTION FROM LIMITATION ON ANNUAL ADJUSTMENTS.—Any increase in expenditures attributable to paragraph (1) during 2004 shall not be taken into account in applying section 1848(c)(2)(B)(ii)(II) of the Social Security Act (42 U.S.C. 1395w–4(c)(2)(B)(ii)(II)) for that year.

(b) GAO REPORT.—

(1) EVALUATION.—As part of the study on geographic differences in payments for physicians' services conducted under section 309, the Comptroller General shall evaluate the following:

(A) Whether there is a sound economic basis for the implementation of the adjustment under subsection (a)(1) in those areas in which the adjustment applies.

(B) The effect of such adjustment on physician location and retention in areas affected by such adjustment, taking into account—

(i) differences in recruitment costs and retention rates for physicians, including specialists, between large urban areas and other areas; and

(ii) the mobility of physicians, including specialists, over the last decade.

(C) The appropriateness of establishing a floor of 1.0 for the work geographic index.

(2) REPORT.—By not later than September 1, 2003, the Comptroller General shall submit to Congress and to the Secretary a report on the evaluation conducted under paragraph (1).

Subtitle B—Other Services

SEC. 511. COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES.

(a) IN GENERAL.—Section 1847 (42 U.S.C. 1395w–3) is amended to read as follows:

''COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES

''SEC. 1847. (a) ESTABLISHMENT OF COMPETITIVE ACQUISITION PROGRAMS.—

''(1) IMPLEMENTATION OF PROGRAMS.—

''(A) IN GENERAL.—The Secretary shall establish and implement programs under which competitive acquisition areas are established throughout the United States for contract award purposes for the furnishing under this part of competitively priced items and services (described in paragraph (2)) for which payment is made under this part. Such areas may differ for different items and services.

''(B) PHASED-IN IMPLEMENTATION.—The programs shall be phased-in among competitive acquisition areas over a period of not longer than 3 years in a manner so that the competition under the programs occurs in—

''(i) at least ⅓ of such areas in 2004; and

''(ii) at least ⅔ of such areas in 2005.

''(C) WAIVER OF CERTAIN PROVISIONS.—In carrying out the programs, the Secretary may waive such provisions of the Federal Acquisition Regulation as are necessary for the efficient implementation of this section, other than provisions relating to confidentiality of information and such other provisions as the Secretary determines appropriate.

''(2) ITEMS AND SERVICES DESCRIBED.—The items and services referred to in paragraph (1) are the following:

''(A) DURABLE MEDICAL EQUIPMENT AND INHALATION DRUGS USED IN CONNECTION WITH DURABLE MEDICAL EQUIPMENT.—Covered items (as defined in section 1834(a)(13)) for which payment is otherwise made under section 1834(a), other than items used in infusion, and inhalation drugs used in conjunction with durable medical equipment.

''(B) OFF-THE-SHELF ORTHOTICS.—Orthotics (described in section 1861(s)(9)) for which payment is otherwise made under section 1834(h) which require minimal self-adjustment for appropriate use and does not require expertise in trimming, bending, molding, assembling, or customizing to fit to the patient.

''(3) EXEMPTION AUTHORITY.—In carrying out the programs under this section, the Secretary may exempt—

''(A) areas that are not competitive due to low population density; and

''(B) items and services for which the application of competitive acquisition is not likely to result in significant savings.

''(b) PROGRAM REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall conduct a competition among entities supplying items and services described in subsection (a)(2) for each competitive acquisition area in which the program is implemented under subsection (a) with respect to such items and services.

''(2) CONDITIONS FOR AWARDING CONTRACT.—

''(A) IN GENERAL.—The Secretary may not award a contract to any entity under the competition conducted in an competitive acquisition area pursuant to paragraph (1) to furnish such items or services unless the Secretary finds all of the following:

''(i) The entity meets quality and financial standards specified by the Secretary or developed by accreditation entities or organizations recognized by the Secretary.

''(ii) The total amounts to be paid under the contract (including costs associated with the administration of the contract) are expected to be less than the total amounts that would otherwise be paid.

''(iii) Beneficiary access to a choice of multiple suppliers in the area is maintained.

''(iv) Beneficiary liability is limited to the applicable percentage of contract award price.

''(B) QUALITY STANDARDS.—The quality standards specified under subparagraph (A)(i) shall not be less than the quality standards that would otherwise apply if this section did not apply and shall include consumer services standards. The Secretary shall consult with an expert outside advisory panel composed of an appropriate selection of representatives of physicians, practitioners, and suppliers to review (and advise the Secretary concerning) such quality standards.

''(3) CONTENTS OF CONTRACT.—

''(A) IN GENERAL.—A contract entered into with an entity under the competition conducted pursuant to paragraph (1) is subject to terms and conditions that the Secretary may specify.

''(B) TERM OF CONTRACTS.—The Secretary shall rebid contracts under this section not less often than once every 3 years.

''(4) LIMIT ON NUMBER OF CONTRACTORS.—

''(A) IN GENERAL.—The Secretary may limit the number of contractors in a competitive acquisition area to the number needed to meet projected demand for items and services covered under the contracts. In awarding contracts, the Secretary shall take into account the ability of bidding entities to furnish items or services in sufficient quantities to meet the anticipated needs of beneficiaries for such items or services in the geographic area covered under the contract on a timely basis.

''(B) MULTIPLE WINNERS.—The Secretary shall award contracts to more than one entity submitting a bid in each area for an item or service.

''(5) PARTICIPATING CONTRACTORS.—Payment shall not be made for items and services described in subsection (a)(2) furnished by a contractor and for which competition is conducted under this section unless—

''(A) the contractor has submitted a bid for such items and services under this section; and

''(B) the Secretary has awarded a contract to the contractor for such items and services under this section.

''(6) AUTHORITY TO CONTRACT FOR EDUCATION, OUTREACH AND COMPLAINT SERVICES.—The Secretary may enter into a contract with an appropriate entity to address complaints from beneficiaries who receive items and services from an entity with a contract under this section and to conduct appropriate education of and outreach to such beneficiaries with respect to the program.

''(c) ANNUAL REPORTS.—The Secretary shall submit to Congress an annual management report on the programs under this section. Each such report shall include information on savings, reductions in cost-sharing, access to items and services, and beneficiary satisfaction.

''(d) DEMONSTRATION PROJECT FOR CLINICAL LABORATORY SERVICES.—

''(1) IN GENERAL.—The Secretary shall conduct a demonstration project on the application of competitive acquisition under this section to clinical diagnostic laboratory tests—

''(A) for which payment is otherwise made under section 1833(h) or 1834(d)(1) (relating to colorectal cancer screening tests); and

''(B) which are furnished without a face-to-face encounter between the individual and the hospital or physician ordering the tests.

''(2) TERMS AND CONDITIONS.—Such project shall be under the same conditions as are applicable to items and services described in subsection (a)(2).

''(3) REPORT.—The Secretary shall submit to Congress—

''(A) an initial report on the project not later than December 31, 2004; and

''(B) such progress and final reports on the project after such date as the Secretary determines appropriate.''.

(b) CONTINUATION OF CERTAIN DEMONSTRATION PROJECTS.—Notwithstanding the amendment made by subsection (a), with respect to demonstration projects implemented by the Secretary under section 1847 of the Social Security Act (42 U.S.C. 1395w–3) (relating to the establishment of competitive acquisition areas) that was in effect on the day before the date of the enactment of this Act, each such demonstration project may continue under the same terms and conditions applicable under that section as in effect on that date.

(c) REPORT ON DIFFERENCES IN PAYMENT FOR LABORATORY SERVICES.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that analyzes differences in reimbursement between public and private payors for clinical diagnostic laboratory services.

SEC. 512. PAYMENT FOR AMBULANCE SERVICES.

(a) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—Section 1834(l) (42 U.S.C. 1395m(l)) is amended—

(1) in paragraph (2)(E), by inserting ''consistent with paragraph (10)'' after ''in an efficient and fair manner'';

(2) by redesignating the paragraph (8) added by section 221(a) of BIPA as paragraph (9); and

(3) by adding at the end the following new paragraph:

''(10) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—In carrying out the phase-in under paragraph (2)(E) for each level of service furnished in a year before January 1, 2007, the portion of the payment amount that is based on the fee schedule shall not be less than the following blended rate of the fee schedule under paragraph (1) and of a regional fee schedule for the region involved:

''(A) For 2003, the blended rate shall be based 20 percent on the fee schedule under paragraph (1) and 80 percent on the regional fee schedule.

''(B) For 2004, the blended rate shall be based 40 percent on the fee schedule under paragraph (1) and 60 percent on the regional fee schedule.

''(C) For 2005, the blended rate shall be based 60 percent on the fee schedule under paragraph (1) and 40 percent on the regional fee schedule.

''(D) For 2006, the blended rate shall be based 80 percent on the fee schedule under paragraph (1) and 20 percent on the regional fee schedule.

For purposes of this paragraph, the Secretary shall establish a regional fee schedule for each of the 9 Census divisions using the methodology (used in establishing the fee schedule under paragraph (1)) to calculate a regional conversion factor and a regional mileage payment rate and using the same payment adjustments and the same relative value units as used in the fee schedule under such paragraph.''.

(b) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—Section 1834(l), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

''(11) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—In the case of ground ambulance services furnished on or after January 1, 2003, and before January 1, 2008, regardless of where the transportation originates, the fee schedule established under this subsection shall provide that, with respect to the payment rate for mileage for a trip above 50 miles the per mile rate otherwise established shall be increased by ¼ of the payment per mile otherwise applicable to such miles.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to ambulance services furnished on or after January 1, 2003.

SEC. 513. 2-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS; PROVISIONS RELATING TO REPORTS.

(a) 2-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS.—Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is amended by striking ''and 2002'' and inserting ''2002, 2003, and 2004''.

(b) PROMPT SUBMISSION OF OVERDUE REPORTS ON PAYMENT AND UTILIZATION OF OUTPATIENT THERAPY SERVICES.—Not later than December 31, 2002, the Secretary shall submit to Congress the reports required under section 4541(d)(2) of the Balanced Budget Act of 1997 (relating to alternatives to a single annual dollar cap on outpatient therapy) and under section 221(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (relating to utilization patterns for outpatient therapy).

(c) IDENTIFICATION OF CONDITIONS AND DISEASES JUSTIFYING WAIVER OF THERAPY CAP.—

(1) STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to identify conditions or diseases that should justify conducting an assessment of the need to waive the therapy caps under section 1833(g)(4) of the Social Security Act (42 U.S.C. 1395l(g)(4)).

(2) REPORTS TO CONGRESS.—Not later than September 1, 2003, the Secretary shall submit to Congress a preliminary report on the conditions and diseases identified under paragraph (1) and not later than December 31, 2003, a final report on the conditions and diseases so identified.

(d) GAO STUDY OF PATIENT ACCESS TO PHYSICAL THERAPIST SERVICES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on access to physical therapist services in States authorizing such services without a physician referral and in States that require such a physician referral. The study shall—

(A) examine the use of and referral patterns for physical therapist services for patients age 50 and older in States that authorize such services without a physician referral and in States that require such a physician referral;

(B) examine the use of and referral patterns for physical therapist services for patients who are medicare beneficiaries;

(C) examine the potential effect of prohibiting a physician from referring patients to physical therapy services owned by the physician and provided in the physician's office;

(D) examine the delivery of physical therapists' services within the facilities of Department of Defense; and

(E) analyze the potential impact on medicare beneficiaries and on expenditures under the medicare program of eliminating the need for a physician referral and physician certification for physical therapist services under the medicare program.

(2) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than 1 year after the date of the enactment of this Act.

SEC. 514. COVERAGE OF AN INITIAL PREVENTIVE PHYSICAL EXAMINATION.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (U), by striking ''and'' at the end;

(2) in subparagraph (V), by inserting ''and'' at the end; and

(3) by adding at the end the following new subparagraph:

''(W) an initial preventive physical examination (as defined in subsection (ww));''.

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Initial Preventive Physical Examination

''(ww) The term 'initial preventive physical examination' means physicians' services consisting of a physical examination with the goal of health promotion and disease detection and includes items and services (excluding clinical laboratory tests), as determined by the Secretary, consistent with the recommendations of the United States Preventive Services Task Force.''.

(c) WAIVER OF DEDUCTIBLE AND COINSURANCE.—

(1) DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)) is amended—

(A) by striking ''and'' before ''(6)'', and

(B) by inserting before the period at the end the following: '', and (7) such deductible shall not apply with respect to an initial preventive physical examination (as defined in section 1861(ww))''.

(2) COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) in clause (N), by inserting ''(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))'' after ''80 percent''; and

(B) in clause (O), by inserting ''(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))'' after ''80 percent''.

(d) PAYMENT AS PHYSICIANS' SERVICES.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by inserting ''(2)(W),'' after ''(2)(S),''.

(e) OTHER CONFORMING AMENDMENTS.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''and'' at the end of subparagraph (H);

(B) by striking the semicolon at the end of subparagraph (I) and inserting '', and''; and

(C) by adding at the end the following new subparagraph:

''(J) in the case of an initial preventive physical examination, which is performed not later than 6 months after the date the individual's first coverage period begins under part B;''; and

(2) in paragraph (7), by striking ''or (H)'' and inserting ''(H), or (J)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2004, but only for individuals whose coverage period begins on or after such date.

SEC. 515. RENAL DIALYSIS SERVICES.

(a) REPORT ON DIFFERENCES IN COSTS IN DIFFERENT SETTINGS.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report containing—

(1) an analysis of the differences in costs of providing renal dialysis services under the medicare program in home settings and in facility settings;

(2) an assessment of the percentage of overhead costs in home settings and in facility settings; and

(3) an evaluation of whether the charges for home dialysis supplies and equipment are reasonable and necessary.

(b) RESTORING COMPOSITE RATE EXCEPTIONS FOR PEDIATRIC FACILITIES.—

(1) IN GENERAL.—Section 422(a)(2) of BIPA is amended—

(A) in subparagraph (A), by striking ''and (C)'' and inserting '', (C), and (D)'';

(B) in subparagraph (B), by striking ''In the case'' and inserting ''Subject to subparagraph (D), in the case''; and

(C) by adding at the end the following new subparagraph:

''(D) INAPPLICABILITY TO PEDIATRIC FACILITIES.—Subparagraphs (A) and (B) shall not apply, as of October 1, 2002, to pediatric facilities that do not have an exception rate described in subparagraph (C) in effect on such date. For purposes of this subparagraph, the term 'pediatric facility' means a renal facility at least 50 percent of whose patients are individuals under 18 years of age.''.

(2) CONFORMING AMENDMENT.—The fourth sentence of section 1881(b)(7) (42 U.S.C. 1395rr(b)(7)) is amended by striking ''The Secretary'' and inserting ''Subject to section 422(a)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, the Secretary''.

(c) INCREASE IN RENAL DIALYSIS COMPOSITE RATE FOR SERVICES FURNISHED IN 2004.—Notwithstanding any other provision of law, with respect to payment under part B of title XVIII of the Social Security Act for renal dialysis services furnished in 2004, the composite payment rate otherwise established under section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) shall be increased by 1.2 percent.

SEC. 516. IMPROVED PAYMENT FOR CERTAIN MAMMOGRAPHY SERVICES.

(a) EXCLUSION FROM OPD FEE SCHEDULE.—Section 1833(t)(1)(B)(iv) (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by inserting before the period at the end the following: ''and does not include screening mammography (as defined in section 1861(jj)) and unilateral and bilateral diagnostic mammography''.

(b) ADJUSTMENT TO TECHNICAL COMPONENT.—For diagnostic mammography performed on or after January 1, 2004, for which payment is made under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4), the Secretary, based on the most recent cost data available, shall provide for an appropriate adjustment in the payment amount for the technical component of the diagnostic mammography.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to mammography performed on or after January 1, 2004.

SEC. 517. WAIVER OF PART B LATE ENROLLMENT PENALTY FOR CERTAIN MILITARY RETIREES; SPECIAL ENROLLMENT PERIOD.

(a) WAIVER OF PENALTY.—

(1) IN GENERAL.—Section 1839(b) (42 U.S.C. 1395r(b)) is amended by adding at the end the following new sentence: ''No increase in the premium shall be effected for a month in the case of an individual who is 65 years of age or older, who enrolls under this part during 2001, 2002, or 2003, and who demonstrates to the Secretary before December 31, 2003, that the individual is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code). The Secretary of Health and Human Services shall consult with the Secretary of Defense in identifying individuals described in the previous sentence.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to premiums for months beginning with January 2003. The Secretary of Health and Human Services shall establish a method for providing rebates of premium penalties paid for months on or after January 2003 for which a penalty does not apply under such amendment but for which a penalty was previously collected.

(b) MEDICARE PART B SPECIAL ENROLLMENT PERIOD.—

(1) IN GENERAL.—In the case of any individual who, as of the date of the enactment of this Act, is 65 years of age or older, is eligible to enroll but is not enrolled under part B of title XVIII of the Social Security Act, and is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code), the Secretary of Health and Human Services shall provide for a special enrollment period during which the individual may enroll under such part. Such period shall begin as soon as possible after the date of the enactment of this Act and shall end on December 31, 2003.

(2) COVERAGE PERIOD.—In the case of an individual who enrolls during the special enrollment period provided under paragraph (1), the coverage period under part B of title XVIII of the Social Security Act shall begin on the first day of the month following the month in which the individual enrolls.

SEC. 518. COVERAGE OF CHOLESTEROL AND BLOOD LIPID SCREENING.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by section 514(a), is amended—

(1) in subparagraph (V), by striking ''and'' at the end;

(2) in subparagraph (W), by inserting ''and'' at the end; and

(3) by adding at the end the following new subparagraph:

''(X) cholesterol and other blood lipid screening tests (as defined in subsection (XX));''.

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x), as amended by section 514(b), is amended by adding at the end the following new subsection:

''Cholesterol and Other Blood Lipid Screening Test

''(xx)(1) The term 'cholesterol and other blood lipid screening test' means diagnostic testing of cholesterol and other lipid levels of the blood for the purpose of early detection of abnormal cholesterol and other lipid levels.

''(2) The Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency and type of cholesterol and other blood lipid screening tests, except that such frequency may not be more often than once every 2 years.''.

(c) FREQUENCY.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 514(e), is amended

(1) by striking ''and'' at the end of subparagraph (I);

(2) by striking the semicolon at the end of subparagraph (J) and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(K) in the case of a cholesterol and other blood lipid screening test (as defined in section 1861(xx)(1)), which is performed more frequently than is covered under section 1861(xx)(2).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2004.

TITLE VI—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

SEC. 601. ELIMINATION OF 15 PERCENT REDUCTION IN PAYMENT RATES UNDER THE PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1895(b)(3)(A) (42 U.S.C. 1395fff(b)(3)(A)) is amended to read as follows:

''(A) INITIAL BASIS.—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts) as follows:

''(i) Such amount (or amounts) shall initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2001 shall be equal to the total amount that would have been made if the system had not been in effect and if section 1861(v)(1)(L)(ix) had not been enacted.

''(ii) For fiscal year 2002 and for the first quarter of fiscal year 2003, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for the previous fiscal year, updated under subparagraph (B).

''(iii) For 2003, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for fiscal year 2002, updated under subparagraph (B) for 2003.

''(iv) For 2004 and each subsequent year, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for the previous year, updated under subparagraph (B).

Each such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and area wage adjustments among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 501 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554).

SEC. 602. UPDATE IN HOME HEALTH SERVICES.

(a) CHANGE TO CALENDAR YEAR UPDATE.—

(1) IN GENERAL.—Section 1895(b) (42 U.S.C. 1395fff(b)(3)) is amended—

(A) in paragraph (3)(B)(i)—

(i) by striking ''each fiscal year (beginning with fiscal year 2002)'' and inserting ''fiscal year 2002 and for each subsequent year (beginning with 2003)''; and

(ii) by inserting ''or year'' after ''the fiscal year'';

(B) in paragraph (3)(B)(ii)—

(i) in subclause (II), by striking ''fiscal year'' and inserting ''year'' and by redesignating such subclause as subclause (III); and

(ii) in subclause (I), by striking ''each of fiscal years 2002 and 2003'' and inserting the following: ''fiscal year 2002, the home health market basket percentage increase (as defined in clause (iii)) minus 1.1 percentage points;

''(II) 2003'';

(C) in paragraph (3)(B)(iii), by inserting ''or year'' after ''fiscal year'' each place it appears;

(D) in paragraph (3)(B)(iv)—

(i) by inserting ''or year'' after ''fiscal year'' each place it appears; and

(ii) by inserting ''or years'' after ''fiscal years''; and

(E) in paragraph (5), by inserting ''or year'' after ''fiscal year''.

(2) TRANSITION RULE.—The standard prospective payment amount (or amounts) under section 1895(b)(3) of the Social Security Act for the calendar quarter beginning on October 1, 2002, shall be such amount (or amounts) for the previous calendar quarter.

(b) CHANGES IN UPDATES FOR 2003, 2004, AND 2005.—Section 1895(b)(3)(B)(ii) (42 U.S.C. 1395fff(b)(3)(B)(ii)), as amended by subsection (a)(1)(B), is amended—

(1) in subclause (II), by striking ''the home health market basket percentage increase (as defined in clause (iii)) minus 1.1 percentage points'' and inserting ''2.0 percentage points'';

(2) by striking ''or'' at the end of subclause (II);

(3) by redesignating subclause (III) as subclause (V); and

(4) by inserting after subclause (II) the following new subclause:

''(III) 2004, 1.1 percentage points;

''(IV) 2005, 2.7 percentage points; or''.

(c) PAYMENT ADJUSTMENT.—

(1) IN GENERAL.—Section 1895(b)(5) (42 U.S.C. 1395fff(b)(5)) is amended by striking ''5 percent'' and inserting ''3 percent''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to years beginning with 2003.

SEC. 603. OASIS TASK FORCE; SUSPENSION OF CERTAIN OASIS DATA COLLECTION REQUIREMENTS PENDING TASK FORCE SUBMITTAL OF REPORT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish and appoint a task force (to be known as the ''OASIS Task Force'') to examine the data collection and reporting requirements under OASIS. For purposes of this section, the term ''OASIS'' means the Outcome and Assessment Information Set required by reason of section 4602(e) of Balanced Budget Act of 1997 (42 U.S.C. 1395fff note).

(b) COMPOSITION.—The OASIS Task Force shall be composed of the following:

(1) Staff of the Centers for Medicare & Medicaid Services with expertise in post-acute care.

(2) Representatives of home health agencies.

(3) Health care professionals and research and health care quality experts outside the Federal Government with expertise in post-acute care.

(4) Advocates for individuals requiring home health services.

(c) DUTIES.—

(1) REVIEW AND RECOMMENDATIONS.—The OASIS Task Force shall review and make recommendations to the Secretary regarding changes in OASIS to improve and simplify data collection for purposes of—

(A) assessing the quality of home health services; and

(B) providing consistency in classification of patients into home health resource groups (HHRGs) for payment under section 1895 of the Social Security Act (42 U.S.C. 1395fff).

(2) SPECIFIC ITEMS.—In conducting the review under paragraph (1), the OASIS Task Force shall specifically examine—

(A) the 41 outcome measures currently in use;

(B) the timing and frequency of data collection; and

(C) the collection of information on comorbidities and clinical indicators.

(3) REPORT.—The OASIS Task Force shall submit a report to the Secretary containing its findings and recommendations for changes in OASIS by not later than 18 months after the date of the enactment of this Act.

(d) SUNSET.—The OASIS Task Force shall terminate 60 days after the date on which the report is submitted under subsection (c)(2).

(e) NONAPPLICATION OF FACA.—The provisions of the Federal Advisory Committee Act shall not apply to the OASIS Task Force.

(f) SUSPENSION OF OASIS REQUIREMENT FOR COLLECTION OF DATA ON NON-MEDICARE AND NON-MEDICAID PATIENTS PENDING TASK FORCE REPORT.—

(1) IN GENERAL.—During the period described in paragraph (2), the Secretary of Health and Human Services may not require, under section 4602(e) of the Balanced Budget Act of 1997 or otherwise under OASIS, a home health agency to gather or submit information that relates to an individual who is not eligible for benefits under either title XVIII or title XIX of the Social Security Act.

(2) PERIOD OF SUSPENSION.—The period described in this paragraph—

(A) begins on January 1, 2003, and

(B) ends on the last day of the 2nd month beginning after the date the report is submitted under subsection (c)(2).

SEC. 604. MEDPAC STUDY ON MEDICARE MARGINS OF HOME HEALTH AGENCIES.

(a) STUDY.—The Medicare Payment Advisory Commission shall conduct a study of payment margins of home health agencies under the home health prospective payment system under section 1895 of the Social Security Act (42 U.S.C. 1395fff). Such study shall examine whether systematic differences in payment margins are related to differences in case mix (as measured by home health resource groups (HHRGs)) among such agencies. The study shall use the partial or full-year cost reports filed by home health agencies.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study under subsection (a).

SEC. 605. CLARIFICATION OF TREATMENT OF OCCASIONAL ABSENCES IN DETERMINING WHETHER AN INDIVIDUAL IS CONFINED TO THE HOME.

(a) IN GENERAL.—The penultimate sentence of section 1814(a) (42 U.S.C. 1395f(a) and the penultimate sentence of section 1835(a) (42 U.S.C. 1395n(a)) are each amended to read as follows: ''Any other absence of an individual from the home shall not so disqualify the individual if the absence is infrequent or of relatively short duration, such as an occasional trip to the barber or a walk around the block, and is not inconsistent with the assessment underlying the individual's plan of care for home health services.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle B—Direct Graduate Medical Education

SEC. 611. EXTENSION OF UPDATE LIMITATION ON HIGH COST PROGRAMS.

Section 1886(h)(2)(D)(iv) (42 U.S.C. 1395ww(h)(2)(D)(iv)) is amended—

(1) in subclause (I)—

(A) by striking ''AND 2002'' and inserting ''THROUGH 2012'';

(B) by striking ''during fiscal year 2001 or fiscal year 2002'' and inserting ''during the period beginning with fiscal year 2001 and ending with fiscal year 2012''; and

(C) by striking ''subject to subclause (III),'';

(2) by striking subclause (II); and

(3) in subclause (III)—

(A) by redesignating such subclause as subclause (II); and

(B) by striking ''or (II)''.

SEC. 612. REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.

(a) IN GENERAL.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended—

(1) in subparagraph (F)(i), by inserting ''subject to subparagraph (I),'' after ''October 1, 1997,'';

(2) in subparagraph (H)(i), by inserting ''subject to subparagraph (I),'' after ''subparagraphs (F) and (G),''; and

(3) by adding at the end the following new subparagraph:

''(I) REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.—

''(i) REDUCTION IN LIMIT BASED ON UNUSED POSITIONS.—

''(I) IN GENERAL.—If a hospital's resident level (as defined in clause (iii)(I)) is less than the otherwise applicable resident limit (as defined in clause (iii)(II)) for each of the reference periods (as defined in subclause (II)), effective for cost reporting periods beginning on or after January 1, 2003, the otherwise applicable resident limit shall be reduced by 75 percent of the difference between such limit and the reference resident level specified in subclause (III) (or subclause (IV) if applicable).

''(II) REFERENCE PERIODS DEFINED.—In this clause, the term 'reference periods' means, for a hospital, the 3 most recent consecutive cost reporting periods of the hospital for which cost reports have been settled (or, if not, submitted) on or before September 30, 2001.

''(III) REFERENCE RESIDENT LEVEL.—Subject to subclause (IV), the reference resident level specified in this subclause for a hospital is the highest resident level for the hospital during any of the reference periods.

''(IV) ADJUSTMENT PROCESS.—Upon the timely request of a hospital, the Secretary may adjust the reference resident level for a hospital to be the resident level for the hospital for the cost reporting period that includes July 1, 2002.

''(ii) REDISTRIBUTION.—

''(I) IN GENERAL.—The Secretary is authorized to increase the otherwise applicable resident limits for hospitals by an aggregate number estimated by the Secretary that does not exceed the aggregate reduction in such limits attributable to clause (i) (without taking into account any adjustment under subclause (IV) of such clause).

''(II) EFFECTIVE DATE.—No increase under subclause (I) shall be permitted or taken into account for a hospital for any portion of a cost reporting period that occurs before July 1, 2003, or before the date of the hospital's application for an increase under this clause. No such increase shall be permitted for a hospital unless the hospital has applied to the Secretary for such increase by December 31, 2004.

''(III) CONSIDERATIONS IN REDISTRIBUTION.—In determining for which hospitals the increase in the otherwise applicable resident limit is provided under subclause (I), the Secretary shall take into account the need for such an increase by specialty and location involved, consistent with subclause (IV).

''(IV) PRIORITY FOR RURAL AND SMALL URBAN AREAS.—In determining for which hospitals and residency training programs an increase in the otherwise applicable resident limit is provided under subclause (I), the Secretary shall first distribute the increase to programs of hospitals located in rural areas or in urban areas that are not large urban areas (as defined for purposes of subsection (d)) on a first-come-first-served basis (as determined by the Secretary) based on a demonstration that the hospital will fill the positions made available under this clause and not to exceed an increase of 25 full-time equivalent positions with respect to any hospital.

''(V) APPLICATION OF LOCALITY ADJUSTED NATIONAL AVERAGE PER RESIDENT AMOUNT.—With respect to additional residency positions in a hospital attributable to the increase provided under this clause, notwithstanding any other provision of this subsection, the approved FTE resident amount is deemed to be equal to the locality adjusted national average per resident amount computed under subparagraph (E) for that hospital.

''(VI) CONSTRUCTION.—Nothing in this clause shall be construed as permitting the redistribution of reductions in residency positions attributable to voluntary reduction programs under paragraph (6) or as affecting the ability of a hospital to establish new medical residency training programs under subparagraph (H).

''(iii) RESIDENT LEVEL AND LIMIT DEFINED.—In this subparagraph:

''(I) RESIDENT LEVEL.—The term 'resident level' means, with respect to a hospital, the total number of full-time equivalent residents, before the application of weighting factors (as determined under this paragraph), in the fields of allopathic and osteopathic medicine for the hospital.

''(II) OTHERWISE APPLICABLE RESIDENT LIMIT.—The term 'otherwise applicable resident limit' means, with respect to a hospital, the limit otherwise applicable under subparagraphs (F)(i) and (H) on the resident level for the hospital determined without regard to this subparagraph.''.

(b) NO APPLICATION OF INCREASE TO IME.—Section 1886(d)(5)(B)(v) (42 U.S.C. 1395ww(d)(5)(B)(v)) is amended by adding at the end the following: ''The provisions of clause (i) of subparagraph (I) of subsection (h)(4) shall apply with respect to the first sentence of this clause in the same manner as it applies with respect to subparagraph (F) of such subsection, but the provisions of clause (ii) of such subparagraph shall not apply.''.

(c) REPORT ON EXTENSION OF APPLICATIONS UNDER REDISTRIBUTION PROGRAM.—Not later than July 1, 2004, the Secretary shall submit to Congress a report containing recommendations regarding whether to extend the deadline for applications for an increase in resident limits under section 1886(h)(4)(I)(ii)(II) of the Social Security Act (as added by subsection (a)).

Subtitle C—Other Provisions

SEC. 621. MODIFICATIONS TO MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXAMINATION OF BUDGET CONSEQUENCES.—Section 1805(b) (42 U.S.C. 1395b–6(b)) is amended by adding at the end the following new paragraph:

''(8) EXAMINATION OF BUDGET CONSEQUENCES.—Before making any recommendations, the Commission shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities.''.

(b) CONSIDERATION OF EFFICIENT PROVISION OF SERVICES.—Section 1805(b)(2)(B)(i) (42 U.S.C. 1395b–6(b)(2)(B)(i)) is amended by inserting ''the efficient provision of'' after ''expenditures for''.

(c) ADDITIONAL REPORTS.—

(1) DATA NEEDS AND SOURCES.—The Medicare Payment Advisory Commission shall conduct a study, and submit a report to Congress by not later than June 1, 2003, on the need for current data, and sources of current data available, to determine the solvency and financial circumstances of hospitals and other medicare providers of services. The Commission shall examine data on uncompensated care, as well as the share of uncompensated care accounted for by the expenses for treating illegal aliens.

(2) USE OF TAX-RELATED RETURNS.—Using return information provided under Form 990 of the Internal Revenue Service, the Commission shall submit to Congress, by not later than June 1, 2003, a report on the following:

(A) Investments and capital financing of hospitals participating under the medicare program and related foundations.

(B) Access to capital financing for private and for not-for-profit hospitals.

SEC. 622. DEMONSTRATION PROJECT FOR DISEASE MANAGEMENT FOR CERTAIN MEDICARE BENEFICIARIES WITH DIABETES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project under this section (in this section referred to as the ''project'') to demonstrate the impact on costs and health outcomes of applying disease management to certain medicare beneficiaries with diagnosed diabetes. In no case may the number of participants in the project exceed 30,000 at any time.

(b) VOLUNTARY PARTICIPATION.—

(1) ELIGIBILITY.—Medicare beneficiaries are eligible to participate in the project only if—

(A) they are a member of a health disparity population (as defined in section 485E(d) of the Public Health Service Act), such as Hispanics;

(B) they meet specific medical criteria demonstrating the appropriate diagnosis and the advanced nature of their disease;

(C) their physicians approve of participation in the project; and

(D) they are not enrolled in a Medicare+Choice plan.

(2) BENEFITS.—A medicare beneficiary who is enrolled in the project shall be eligible—

(A) for disease management services related to their diabetes; and

(B) for payment for all costs for prescription drugs without regard to whether or not they relate to the diabetes, except that the project may provide for modest cost-sharing with respect to prescription drug coverage.

(c) CONTRACTS WITH DISEASE MANAGEMENT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall carry out the project through contracts with up to three disease management organizations. The Secretary shall not enter into such a contract with an organization unless the organization demonstrates that it can produce improved health outcomes and reduce aggregate medicare expenditures consistent with paragraph (2).

(2) CONTRACT PROVISIONS.—Under such contracts—

(A) such an organization shall be required to provide for prescription drug coverage described in subsection (b)(2)(B);

(B) such an organization shall be paid a fee negotiated and established by the Secretary in a manner so that (taking into account savings in expenditures under parts A and B of the medicare program under title XVIII of the Social Security Act) there will be no net increase, and to the extent practicable, there will be a net reduction in expenditures under the medicare program as a result of the project; and

(C) such an organization shall guarantee, through an appropriate arrangement with a reinsurance company or otherwise, the prohibition on net increases in expenditures described in subparagraph (B).

(3) PAYMENTS.—Payments to such organizations shall be made in appropriate proportion from the Trust Funds established under title XVIII of the Social Security Act.

(d) APPLICATION OF MEDIGAP PROTECTIONS TO DEMONSTRATION PROJECT ENROLLEES.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to enrollment (and termination of enrollment) in the demonstration project under this section, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

(2) In applying paragraph (1)—

(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) of such Act to 12 months is deemed a reference to the period of the demonstration project; and

(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Health and Human Services.

(e) DURATION.—The project shall last for not longer than 3 years.

(f) WAIVER.—The Secretary of Health and Human Services shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (c)(3).

(g) REPORT.—The Secretary of Health and Human Services shall submit to Congress an interim report on the project not later than 2 years after the date it is first implemented and a final report on the project not later than 6 months after the date of its completion. Such reports shall include information on the impact of the project on costs and health outcomes and recommendations on the cost-effectiveness of extending or expanding the project.

(h) WORKING GROUP ON MEDICARE DISEASE MANAGEMENT PROGRAMS.—The Secretary shall establish within the Department of Health and Human Services a working group consisting of employees of the Department to carry out the following:

(1) To oversee the project.

(2) To establish policy and criteria for medicare disease management programs within the Department, including the establishment of policy and criteria for such programs.

(3) To identify targeted medical conditions and targeted individuals.

(4) To select areas in which such programs are carried out.

(5) To monitor health outcomes under such programs.

(6) To measure the effectiveness of such programs in meeting any budget neutrality requirements.

(7) Otherwise to serve as a central focal point within the Department for dissemination of information on medicare disease management programs.

(i) GAO STUDY ON DISEASE MANAGEMENT PROGRAMS.—The Comptroller General of the United States shall conduct a study that compares disease management programs under title XVIII of the Social Security Act with such programs conducted in the private sector, including the prevalence of such programs and programs for case management. The study shall identify the cost-effectiveness of such programs and any savings achieved by such programs. The Comptroller General shall submit a report on such study to Congress by not later than 18 months after the date of the enactment of this Act.

SEC. 623. DEMONSTRATION PROJECT FOR MEDICAL ADULT DAY CARE SERVICES.

(a) ESTABLISHMENT.—Subject to the succeeding provisions of this section, the Secretary of Health and Human Services shall establish a demonstration project (in this section referred to as the ''demonstration project'') under which the Secretary shall, as part of a plan of an episode of care for home health services established for a medicare beneficiary, permit a home health agency, directly or under arrangements with a medical adult day care facility, to provide medical adult day care services as a substitute for a portion of home health services that would otherwise be provided in the beneficiary's home.

(b) PAYMENT.—

(1) IN GENERAL.—The amount of payment for an episode of care for home health services, a portion of which consists of substitute medical adult day care services, under the demonstration project shall be made at a rate equal to 95 percent of the amount that would otherwise apply for such home health services under section 1895 of the Social Security Act (42 u.s.c. 1395fff). In no case may a home health agency, or a medical adult day care facility under arrangements with a home health agency, separately charge a beneficiary for medical adult day care services furnished under the plan of care.

(2) BUDGET NEUTRALITY FOR DEMONSTRATION PROJECT.—Notwithstanding any other provision of law, the Secretary shall provide for an appropriate reduction in the aggregate amount of additional payments made under section 1895 of the Social Security Act (42 U.S.C. 1395fff) to reflect any increase in amounts expended from the Trust Funds as a result of the demonstration project conducted under this section.

(c) DEMONSTRATION PROJECT SITES.—The project established under this section shall be conducted in not more than 5 States selected by the Secretary that license or certify providers of services that furnish medical adult day care services.

(d) DURATION.—The Secretary shall conduct the demonstration project for a period of 3 years.

(e) VOLUNTARY PARTICIPATION.—Participation of medicare beneficiaries in the demonstration project shall be voluntary. The total number of such beneficiaries that may participate in the project at any given time may not exceed 15,000.

(f) PREFERENCE IN SELECTING AGENCIES.—In selecting home health agencies to participate under the demonstration project, the Secretary shall give preference to those agencies that are currently licensed or certified through common ownership and control to furnish medical adult day care services.

(g) WAIVER AUTHORITY.—The Secretary may waive such requirements of title XVIII of the Social Security Act as may be necessary for the purposes of carrying out the demonstration project, other than waiving the requirement that an individual be homebound in order to be eligible for benefits for home health services.

(h) EVALUATION AND REPORT.—The Secretary shall conduct an evaluation of the clinical and cost effectiveness of the demonstration project. Not later 30 months after the commencement of the project, the Secretary shall submit to Congress a report on the evaluation, and shall include in the report the following:

(1) An analysis of the patient outcomes and costs of furnishing care to the medicare beneficiaries participating in the project as compared to such outcomes and costs to beneficiaries receiving only home health services for the same health conditions.

(2) Such recommendations regarding the extension, expansion, or termination of the project as the Secretary determines appropriate.

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH AGENCY.—The term ''home health agency'' has the meaning given such term in section 1861(o) of the Social Security Act (42 U.S.C. 1395x(o)).

(2) MEDICAL ADULT DAY CARE FACILITY.—The term ''medical adult day care facility'' means a facility that—

(A) has been licensed or certified by a State to furnish medical adult day care services in the State for a continuous 2-year period;

(B) is engaged in providing skilled nursing services and other therapeutic services directly or under arrangement with a home health agency;

(C) meets such standards established by the Secretary to assure quality of care and such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the facility; and

(D) provides medical adult day care services.

(3) MEDICAL ADULT DAY CARE SERVICES.—The term ''medical adult day care services'' means—

(A) home health service items and services described in paragraphs (1) through (7) of section 1861(m) furnished in a medical adult day care facility;

(B) a program of supervised activities furnished in a group setting in the facility that—

(i) meet such criteria as the Secretary determines appropriate; and

(ii) is designed to promote physical and mental health of the individuals; and

(C) such other services as the Secretary may specify.

(4) MEDICARE BENEFICIARY.—The term ''medicare beneficiary'' means an individual entitled to benefits under part A of this title, enrolled under part B of this title, or both.

SEC. 624. PUBLICATION ON FINAL WRITTEN GUIDANCE CONCERNING PROHIBITIONS AGAINST DISCRIMINATION BY NATIONAL ORIGIN WITH RESPECT TO HEALTH CARE SERVICES.

Not later than January 1, 2003, the Secretary shall issue final written guidance concerning the application of the prohibition in title VI of the Civil Rights Act of 1964 against national origin discrimination as it affects persons with limited English proficiency with respect to access to health care services under the medicare program.

TITLE VII—MEDICARE BENEFITS ADMINISTRATION

SEC. 701. ESTABLISHMENT OF MEDICARE BENEFITS ADMINISTRATION.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 105, is amended by inserting after 1806 the following new section:

''MEDICARE BENEFITS ADMINISTRATION

''SEC. 1808. (a) ESTABLISHMENT.—There is established within the Department of Health and Human Services an agency to be known as the Medicare Benefits Administration.

''(b) ADMINISTRATOR; DEPUTY ADMINISTRATOR; CHIEF ACTUARY.—

''(1) ADMINISTRATOR.—

''(A) IN GENERAL.—The Medicare Benefits Administration shall be headed by an administrator to be known as the 'Medicare Benefits Administrator' (in this section referred to as the 'Administrator') who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be in direct line of authority to the Secretary.

''(B) COMPENSATION.—The Administrator shall be paid at the rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(C) TERM OF OFFICE.—The Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of an Administrator's term of office, that Administrator may continue in office until the entry upon office of such a successor. An Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

''(D) GENERAL AUTHORITY.—The Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

''(E) RULEMAKING AUTHORITY.—The Administrator may prescribe such rules and regulations as the Administrator determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Administrator shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

''(F) AUTHORITY TO ESTABLISH ORGANIZATIONAL UNITS.—The Administrator may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Administrator considers necessary or appropriate, except as specified in this section.

''(G) AUTHORITY TO DELEGATE.—The Administrator may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Administration as the Administrator may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

''(2) DEPUTY ADMINISTRATOR.—

''(A) IN GENERAL.—There shall be a Deputy Administrator of the Medicare Benefits Administration who shall be appointed by the President, by and with the advice and consent of the Senate.

''(B) COMPENSATION.—The Deputy Administrator shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(C) TERM OF OFFICE.—The Deputy Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of a Deputy Administrator's term of office, such Deputy Administrator may continue in office until the entry upon office of such a successor. A Deputy Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

''(D) DUTIES.—The Deputy Administrator shall perform such duties and exercise such powers as the Administrator shall from time to time assign or delegate. The Deputy Administrator shall be Acting Administrator of the Administration during the absence or disability of the Administrator and, unless the President designates another officer of the Government as Acting Administrator, in the event of a vacancy in the office of the Administrator.

''(3) CHIEF ACTUARY.—

''(A) IN GENERAL.—There is established in the Administration the position of Chief Actuary. The Chief Actuary shall be appointed by, and in direct line of authority to, the Administrator of such Administration. The Chief Actuary shall be appointed from among individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences. The Chief Actuary may be removed only for cause.

''(B) COMPENSATION.—The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.

''(C) DUTIES.—The Chief Actuary shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence.

''(4) SECRETARIAL COORDINATION OF PROGRAM ADMINISTRATION.—The Secretary shall ensure appropriate coordination between the Administrator and the Administrator of the Centers for Medicare & Medicaid Services in carrying out the programs under this title.

''(c) DUTIES; ADMINISTRATIVE PROVISIONS.—

''(1) DUTIES.—

''(A) GENERAL DUTIES.—The Administrator shall carry out parts C and D, including—

''(i) negotiating, entering into, and enforcing, contracts with plans for the offering of Medicare+Choice plans under part C, including the offering of qualified prescription drug coverage under such plans; and

''(ii) negotiating, entering into, and enforcing, contracts with PDP sponsors for the offering of prescription drug plans under part D.

''(B) OTHER DUTIES.—The Administrator shall carry out any duty provided for under part C or part D, including demonstration projects carried out in part or in whole under such parts, the programs of all-inclusive care for the elderly (PACE program) under section 1894, the social health maintenance organization (SHMO) demonstration projects (referred to in section 4104(c) of the Balanced Budget Act of 1997), and through a Medicare+Choice project that demonstrates the application of capitation payment rates

for frail elderly medicare beneficiaries through the use of a interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved).

''(C) PRESCRIPTION DRUG CARD.—The Administrator shall carry out section 1807 (relating to the medicare prescription drug discount card endorsement program).

''(D) NONINTERFERENCE.—In carrying out its duties with respect to the provision of qualified prescription drug coverage to beneficiaries under this title, the Administrator may not—

''(i) require a particular formulary or institute a price structure for the reimbursement of covered outpatient drugs;

''(ii) interfere in any way with negotiations between PDP sponsors and Medicare+Choice organizations and drug manufacturers, wholesalers, or other suppliers of covered outpatient drugs; and

''(iii) otherwise interfere with the competitive nature of providing such coverage through such sponsors and organizations.

''(E) ANNUAL REPORTS.—Not later March 31 of each year, the Administrator shall submit to Congress and the President a report on the administration of parts C and D during the previous fiscal year.

''(2) STAFF.—

''(A) IN GENERAL.—The Administrator, with the approval of the Secretary, may employ, without regard to chapter 31 of title 5, United States Code, other than sections 3110 and 3112, such officers and employees as are necessary to administer the activities to be carried out through the Medicare Benefits Administration. The Administrator shall employ staff with appropriate and necessary expertise in negotiating contracts in the private sector.

''(B) FLEXIBILITY WITH RESPECT TO COMPENSATION.—

''(i) IN GENERAL.—The staff of the Medicare Benefits Administration shall, subject to clause (ii), be paid without regard to the provisions of chapter 51 (other than section 5101) and chapter 53 (other than section 5301) of such title (relating to classification and schedule pay rates).

''(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(C) LIMITATION ON FULL-TIME EQUIVALENT STAFFING FOR CURRENT CMS FUNCTIONS BEING TRANSFERRED.—The Administrator may not employ under this paragraph a number of full-time equivalent employees, to carry out functions that were previously conducted by the Centers for Medicare & Medicaid Services and that are conducted by the Administrator by reason of this section, that exceeds the number of such full-time equivalent employees authorized to be employed by the Centers for Medicare & Medicaid Services to conduct such functions as of the date of the enactment of this Act.

''(3) REDELEGATION OF CERTAIN FUNCTIONS OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES.—

''(A) IN GENERAL.—The Secretary, the Administrator, and the Administrator of the Centers for Medicare & Medicaid Services shall establish an appropriate transition of responsibility in order to redelegate the administration of part C from the Secretary and the Administrator of the Centers for Medicare & Medicaid Services to the Administrator as is appropriate to carry out the purposes of this section.

''(B) TRANSFER OF DATA AND INFORMATION.—The Secretary shall ensure that the Administrator of the Centers for Medicare & Medicaid Services transfers to the Administrator of the Medicare Benefits Administration such information and data in the possession of the Administrator of the Centers for Medicare & Medicaid Services as the Administrator of the Medicare Benefits Administration requires to carry out the duties described in paragraph (1).

''(C) CONSTRUCTION.—Insofar as a responsibility of the Secretary or the Administrator of the Centers for Medicare & Medicaid Services is redelegated to the Administrator under this section, any reference to the Secretary or the Administrator of the Centers for Medicare & Medicaid Services in this title or title XI with respect to such responsibility is deemed to be a reference to the Administrator.

''(d) OFFICE OF BENEFICIARY ASSISTANCE.—

''(1) ESTABLISHMENT.—The Secretary shall establish within the Medicare Benefits Administration an Office of Beneficiary Assistance to coordinate functions relating to outreach and education of medicare beneficiaries under this title, including the functions described in paragraph (2). The Office shall be separate operating division within the Administration.

''(2) DISSEMINATION OF INFORMATION ON BENEFITS AND APPEALS RIGHTS.—

''(A) DISSEMINATION OF BENEFITS INFORMATION.—The Office of Beneficiary Assistance shall disseminate, directly or through contract, to medicare beneficiaries, by mail, by posting on the Internet site of the Medicare Benefits Administration and through a toll-free telephone number, information with respect to the following:

''(i) Benefits, and limitations on payment (including cost-sharing, stop-loss provisions, and formulary restrictions) under parts C and D.

''(ii) Benefits, and limitations on payment under parts A and B, including information on medicare supplemental policies under section 1882.

Such information shall be presented in a manner so that medicare beneficiaries may compare benefits under parts A, B, D, and medicare supplemental policies with benefits under Medicare+Choice plans under part C.

''(B) DISSEMINATION OF APPEALS RIGHTS INFORMATION.—The Office of Beneficiary Assistance shall disseminate to medicare beneficiaries in the manner provided under subparagraph (A) a description of procedural rights (including grievance and appeals procedures) of beneficiaries under the original medicare fee-for-service program under parts A and B, the Medicare+Choice program under part C, and the Voluntary Prescription Drug Benefit Program under part D.

''(e) MEDICARE POLICY ADVISORY BOARD.—

''(1) ESTABLISHMENT.—There is established within the Medicare Benefits Administration the Medicare Policy Advisory Board (in this section referred to the 'Board'). The Board shall advise, consult with, and make recommendations to the Administrator of the Medicare Benefits Administration with respect to the administration of parts C and D, including the review of payment policies under such parts.

''(2) REPORTS.—

''(A) IN GENERAL.—With respect to matters of the administration of parts C and D, the Board shall submit to Congress and to the Administrator of the Medicare Benefits Administration such reports as the Board determines appropriate. Each such report may contain such recommendations as the Board determines appropriate for legislative or administrative changes to improve the administration of such parts, including the topics described in subparagraph (B). Each such report shall be published in the Federal Register.

''(B) TOPICS DESCRIBED.—Reports required under subparagraph (A) may include the following topics:

''(i) FOSTERING COMPETITION.—Recommendations or proposals to increase competition under parts C and D for services furnished to medicare beneficiaries.

''(ii) EDUCATION AND ENROLLMENT.—Recommendations for the improvement to efforts to provide medicare beneficiaries information and education on the program under this title, and specifically parts C and D, and the program for enrollment under the title.

''(iii) IMPLEMENTATION OF RISK-ADJUSTMENT.—Evaluation of the implementation under section 1853(a)(3)(C) of the risk adjustment methodology to payment rates under that section to Medicare+Choice organizations offering Medicare+Choice plans that accounts for variations in per capita costs based on health status and other demographic factors.

''(iv) DISEASE MANAGEMENT PROGRAMS.—Recommendations on the incorporation of disease management programs under parts C and D.

''(v) RURAL ACCESS.—Recommendations to improve competition and access to plans under parts C and D in rural areas.

''(C) MAINTAINING INDEPENDENCE OF BOARD.—The Board shall directly submit to Congress reports required under subparagraph (A). No officer or agency of the United States may require the Board to submit to any officer or agency of the United States for approval, comments, or review, prior to the submission to Congress of such reports.

''(3) DUTY OF ADMINISTRATOR OF MEDICARE BENEFITS ADMINISTRATION.—With respect to any report submitted by the Board under paragraph (2)(A), not later than 90 days after the report is submitted, the Administrator of the Medicare Benefits Administration shall submit to Congress and the President an analysis of recommendations made by the Board in such report. Each such analysis shall be published in the Federal Register.

''(4) MEMBERSHIP.—

''(A) APPOINTMENT.—Subject to the succeeding provisions of this paragraph, the Board shall consist of seven members to be appointed as follows:

''(i) Three members shall be appointed by the President.

''(ii) Two members shall be appointed by the Speaker of the House of Representatives, with the advice of the chairmen and the ranking minority members of the Committees on Ways and Means and on Energy and Commerce of the House of Representatives.

''(iii) Two members shall be appointed by the President pro tempore of the Senate with the advice of the chairman and the ranking minority member of the Senate Committee on Finance.

''(B) QUALIFICATIONS.—The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education and experience in health care benefits management, exceptionally qualified to perform the duties of members of the Board.

''(C) PROHIBITION ON INCLUSION OF FEDERAL EMPLOYEES.—No officer or employee of the United States may serve as a member of the Board.

''(5) COMPENSATION.—Members of the Board shall receive, for each day (including travel time) they are engaged in the performance of the functions of the board, compensation at rates not to exceed the daily equivalent to the annual rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(6) TERMS OF OFFICE.—

''(A) IN GENERAL.—The term of office of members of the Board shall be 3 years.

''(B) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed—

''(i) one shall be appointed for a term of 1 year;

''(ii) three shall be appointed for terms of 2 years; and

''(iii) three shall be appointed for terms of 3 years.

''(C) REAPPOINTMENTS.—Any person appointed as a member of the Board may not serve for more than 8 years.

''(D) VACANCY.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

''(7) CHAIR.—The Chair of the Board shall be elected by the members. The term of office of the Chair shall be 3 years.

''(8) MEETINGS.—The Board shall meet at the call of the Chair, but in no event less than three times during each fiscal year.

''(9) DIRECTOR AND STAFF.—

''(A) APPOINTMENT OF DIRECTOR.—The Board shall have a Director who shall be appointed by the Chair.

''(B) IN GENERAL.—With the approval of the Board, the Director may appoint, without regard to chapter 31 of title 5, United States Code, such additional personnel as the Director considers appropriate.

''(C) FLEXIBILITY WITH RESPECT TO COMPENSATION.—

''(i) IN GENERAL.—The Director and staff of the Board shall, subject to clause (ii), be paid without regard to the provisions of chapter 51 and chapter 53 of such title (relating to classification and schedule pay rates).

''(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(D) ASSISTANCE FROM THE ADMINISTRATOR OF THE MEDICARE BENEFITS ADMINISTRATION.—The Administrator of the Medicare Benefits Administration shall make available to the Board such information and other assistance as it may require to carry out its functions.

''(10) CONTRACT AUTHORITY.—The Board may contract with and compensate government and private agencies or persons to carry out its duties under this subsection, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

''(f) FUNDING.—There is authorized to be appropriated, in appropriate part from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund (including the Medicare Prescription Drug Account), such sums as are necessary to carry out this section.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) TIMING OF INITIAL APPOINTMENTS.—The Administrator and Deputy Administrator of the Medicare Benefits Administration may not be appointed before March 1, 2003.

(3) DUTIES WITH RESPECT TO ELIGIBILITY DETERMINATIONS AND ENROLLMENT.—The Administrator of the Medicare Benefits Administration shall carry out enrollment under title XVIII of the Social Security Act, make eligibility determinations under such title, and carry out part C of such title for years beginning or after January 1, 2005.

(4) TRANSITION.—Before the date the Administrator of the Medicare Benefits Administration is appointed and assumes responsibilities under this section and section 1807 of the Social Security Act, the Secretary of Health and Human Services shall provide for the conduct of any responsibilities of such Administrator that are otherwise provided under law.

(c) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—

(1) ADMINISTRATOR AS MEMBER OF THE BOARD OF TRUSTEES OF THE MEDICARE TRUST FUNDS.—Section 1817(b) and section 1841(b) (42 U.S.C. 1395i(b), 1395t(b)) are each amended by striking ''and the Secretary of Health and Human Services, all ex officio,'' and inserting ''the Secretary of Health and Human Services, and the Administrator of the Medicare Benefits Administration, all ex officio,''.

(2) INCREASE IN GRADE TO EXECUTIVE LEVEL III FOR THE ADMINISTRATOR OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES; LEVEL FOR MEDICARE BENEFITS ADMINISTRATOR.—

(A) IN GENERAL.—Section 5314 of title 5, United States Code, by adding at the end the following:

''Administrator of the Centers for Medicare & Medicaid Services .

''Administrator of the Medicare Benefits Administration.''.

(B) CONFORMING AMENDMENT.—Section 5315 of such title is amended by striking ''Administrator of the Health Care Financing Administration.''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph take effect on January 1, 2003.

TITLE VIII—REGULATORY REDUCTION AND CONTRACTING REFORM

Subtitle A—Regulatory Reform

SEC. 801. CONSTRUCTION; DEFINITION OF SUPPLIER.

(a) CONSTRUCTION.—Nothing in this title shall be construed—

(1) to compromise or affect existing legal remedies for addressing fraud or abuse, whether it be criminal prosecution, civil enforcement, or administrative remedies, including under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act); or

(2) to prevent or impede the Department of Health and Human Services in any way from its ongoing efforts to eliminate waste, fraud, and abuse in the medicare program.

Furthermore, the consolidation of medicare administrative contracting set forth in this Act does not constitute consolidation of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund or reflect any position on that issue.

(b) DEFINITION OF SUPPLIER.—Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (c) the following new subsection:

''Supplier

''(d) The term 'supplier' means, unless the context otherwise requires, a physician or other practitioner, a facility, or other entity (other than a provider of services) that furnishes items or services under this title.''.

SEC. 802. ISSUANCE OF REGULATIONS.

(a) CONSOLIDATION OF PROMULGATION TO ONCE A MONTH.—

(1) IN GENERAL.—Section 1871 (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

''(d)(1) Subject to paragraph (2), the Secretary shall issue proposed or final (including interim final) regulations to carry out this title only on one business day of every month.

''(2) The Secretary may issue a proposed or final regulation described in paragraph (1) on any other day than the day described in paragraph (1) if the Secretary—

''(A) finds that issuance of such regulation on another day is necessary to comply with requirements under law; or

''(B) finds that with respect to that regulation the limitation of issuance on the date described in paragraph (1) is contrary to the public interest.

If the Secretary makes a finding under this paragraph, the Secretary shall include such finding, and brief statement of the reasons for such finding, in the issuance of such regulation.

''(3) The Secretary shall coordinate issuance of new regulations described in paragraph (1) relating to a category of provider of services or suppliers based on an analysis of the collective impact of regulatory changes on that category of providers or suppliers.''.

(2) GAO REPORT ON PUBLICATION OF REGULATIONS ON A QUARTERLY BASIS.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the feasibility of requiring that regulations described in section 1871(d) of the Social Security Act be promulgated on a quarterly basis rather than on a monthly basis.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to regulations promulgated on or after the date that is 30 days after the date of the enactment of this Act.

(b) REGULAR TIMELINE FOR PUBLICATION OF FINAL RULES.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)) is amended by adding at the end the following new paragraph:

''(3)(A) The Secretary, in consultation with the Director of the Office of Management and Budget, shall establish and publish a regular timeline for the publication of final regulations based on the previous publication of a proposed regulation or an interim final regulation.

''(B) Such timeline may vary among different regulations based on differences in the complexity of the regulation, the number and scope of comments received, and other relevant factors, but shall not be longer than 3 years except under exceptional circumstances. If the Secretary intends to vary such timeline with respect to the publication of a final regulation, the Secretary shall cause to have published in the Federal Register notice of the different timeline by not later than the timeline previously established with respect to such regulation. Such notice shall include a brief explanation of the justification for such variation.

''(C) In the case of interim final regulations, upon the expiration of the regular timeline established under this paragraph for the publication of a final regulation after opportunity for public comment, the interim final regulation shall not continue in effect unless the Secretary publishes (at the end of the regular timeline and, if applicable, at the end of each succeeding 1-year period) a notice of continuation of the regulation that includes an explanation of why the regular timeline (and any subsequent 1-year extension) was not complied with. If such a notice is published, the regular timeline (or such timeline as previously extended under this paragraph) for publication of the final regulation shall be treated as having been extended for 1 additional year.

''(D) The Secretary shall annually submit to Congress a report that describes the instances in which the Secretary failed to publish a final regulation within the applicable regular timeline under this paragraph and that provides an explanation for such failures.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on

the date of the enactment of this Act. The Secretary shall provide for an appropriate transition to take into account the backlog of previously published interim final regulations.

(c) LIMITATIONS ON NEW MATTER IN FINAL REGULATIONS.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

''(4) If the Secretary publishes notice of proposed rulemaking relating to a regulation (including an interim final regulation), insofar as such final regulation includes a provision that is not a logical outgrowth of such notice of proposed rulemaking, that provision shall be treated as a proposed regulation and shall not take effect until there is the further opportunity for public comment and a publication of the provision again as a final regulation.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to final regulations published on or after the date of the enactment of this Act.

SEC. 803. COMPLIANCE WITH CHANGES IN REGULATIONS AND POLICIES.

(a) NO RETROACTIVE APPLICATION OF SUBSTANTIVE CHANGES.—

(1) IN GENERAL.—Section 1871 (42 U.S.C. 1395hh), as amended by section 802(a), is amended by adding at the end the following new subsection:

''(e)(1)(A) A substantive change in regulations, manual instructions, interpretative rules, statements of policy, or guidelines of general applicability under this title shall not be applied (by extrapolation or otherwise) retroactively to items and services furnished before the effective date of the change, unless the Secretary determines that—

''(i) such retroactive application is necessary to comply with statutory requirements; or

''(ii) failure to apply the change retroactively would be contrary to the public interest.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to substantive changes issued on or after the date of the enactment of this Act.

(b) TIMELINE FOR COMPLIANCE WITH SUBSTANTIVE CHANGES AFTER NOTICE.—

(1) IN GENERAL.—Section 1871(e)(1), as added by subsection (a), is amended by adding at the end the following:

''(B)(i) Except as provided in clause (ii), a substantive change referred to in subparagraph (A) shall not become effective before the end of the 30-day period that begins on the date that the Secretary has issued or published, as the case may be, the substantive change.

''(ii) The Secretary may provide for such a substantive change to take effect on a date that precedes the end of the 30-day period under clause (i) if the Secretary finds that waiver of such 30-day period is necessary to comply with statutory requirements or that the application of such 30-day period is contrary to the public interest. If the Secretary provides for an earlier effective date pursuant to this clause, the Secretary shall include in the issuance or publication of the substantive change a finding described in the first sentence, and a brief statement of the reasons for such finding.

''(C) No action shall be taken against a provider of services or supplier with respect to noncompliance with such a substantive change for items and services furnished before the effective date of such a change.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to compliance actions undertaken on or after the date of the enactment of this Act.

(c) RELIANCE ON GUIDANCE.—

(1) IN GENERAL.—Section 1871(e), as added by subsection (a), is further amended by adding at the end the following new paragraph:

''(2)(A) If—

''(i) a provider of services or supplier follows the written guidance (which may be transmitted electronically) provided by the Secretary or by a medicare contractor (as defined in section 1889(g)) acting within the scope of the contractor's contract authority, with respect to the furnishing of items or services and submission of a claim for benefits for such items or services with respect to such provider or supplier;

''(ii) the Secretary determines that the provider of services or supplier has accurately presented the circumstances relating to such items, services, and claim to the contractor in writing; and

''(iii) the guidance was in error;

the provider of services or supplier shall not be subject to any sanction (including any penalty or requirement for repayment of any amount) if the provider of services or supplier reasonably relied on such guidance.

''(B) Subparagraph (A) shall not be construed as preventing the recoupment or repayment (without any additional penalty) relating to an overpayment insofar as the overpayment was solely the result of a clerical or technical operational error.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act but shall not apply to any sanction for which notice was provided on or before the date of the enactment of this Act.

SEC. 804. REPORTS AND STUDIES RELATING TO REGULATORY REFORM.

(a) GAO STUDY ON ADVISORY OPINION AUTHORITY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine the feasibility and appropriateness of establishing in the Secretary authority to provide legally binding advisory opinions on appropriate interpretation and application of regulations to carry out the medicare program under title XVIII of the Social Security Act. Such study shall examine the appropriate timeframe for issuing such advisory opinions, as well as the need for additional staff and funding to provide such opinions.

(2) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than January 1, 2004.

(b) REPORT ON LEGAL AND REGULATORY INCONSISTENCIES.—Section 1871 (42 U.S.C. 1395hh), as amended by section 803(a), is amended by adding at the end the following new subsection:

''(f)(1) Not later than 2 years after the date of the enactment of this subsection, and every 2 years thereafter, the Secretary shall submit to Congress a report with respect to the administration of this title and areas of inconsistency or conflict among the various provisions under law and regulation.

''(2) In preparing a report under paragraph (1), the Secretary shall collect—

''(A) information from individuals entitled to benefits under part A or enrolled under part B, or both, providers of services, and suppliers and from the Medicare Beneficiary Ombudsman and the Medicare Provider Ombudsman with respect to such areas of inconsistency and conflict; and

''(B) information from medicare contractors that tracks the nature of written and telephone inquiries.

''(3) A report under paragraph (1) shall include a description of efforts by the Secretary to reduce such inconsistency or conflicts, and recommendations for legislation or administrative action that the Secretary determines appropriate to further reduce such inconsistency or conflicts.''.

Subtitle B—Contracting Reform

SEC. 811. INCREASED FLEXIBILITY IN MEDICARE ADMINISTRATION.

(a) CONSOLIDATION AND FLEXIBILITY IN MEDICARE ADMINISTRATION.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1874 the following new section:

''CONTRACTS WITH MEDICARE ADMINISTRATIVE CONTRACTORS

''SEC. 1874A. (a) AUTHORITY.—

''(1) AUTHORITY TO ENTER INTO CONTRACTS.—The Secretary may enter into contracts with any eligible entity to serve as a medicare administrative contractor with respect to the performance of any or all of the functions described in paragraph (4) or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other entities).

''(2) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract with respect to the performance of a particular function described in paragraph (4) only if—

''(A) the entity has demonstrated capability to carry out such function;

''(B) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement;

''(C) the entity has sufficient assets to financially support the performance of such function; and

''(D) the entity meets such other requirements as the Secretary may impose.

''(3) MEDICARE ADMINISTRATIVE CONTRACTOR DEFINED.—For purposes of this title and title XI—

''(A) IN GENERAL.—The term 'medicare administrative contractor' means an agency, organization, or other person with a contract under this section.

''(B) APPROPRIATE MEDICARE ADMINISTRATIVE CONTRACTOR.—With respect to the performance of a particular function in relation to an individual entitled to benefits under part A or enrolled under part B, or both, a specific provider of services or supplier (or class of such providers of services or suppliers), the 'appropriate' medicare administrative contractor is the medicare administrative contractor that has a contract under this section with respect to the performance of that function in relation to that individual, provider of services or supplier or class of provider of services or supplier.

''(4) FUNCTIONS DESCRIBED.—The functions referred to in paragraphs (1) and (2) are payment functions, provider services functions, and functions relating to services furnished to individuals entitled to benefits under part A or enrolled under part B, or both, as follows:

''(A) DETERMINATION OF PAYMENT AMOUNTS.—Determining (subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contracts) the amount of the payments required pursuant to this title to be made to providers of services, suppliers and individuals.

''(B) MAKING PAYMENTS.—Making payments described in subparagraph (A) (including receipt, disbursement, and accounting for funds in making such payments).

''(C) BENEFICIARY EDUCATION AND ASSISTANCE.—Providing education and outreach to individuals entitled to benefits under part A or enrolled under part B, or both, and providing assistance to those individuals with specific issues, concerns or problems.

''(D) PROVIDER CONSULTATIVE SERVICES.—Providing consultative services to institutions, agencies, and other persons to enable

them to establish and maintain fiscal records necessary for purposes of this title and otherwise to qualify as providers of services or suppliers.

''(E) COMMUNICATION WITH PROVIDERS.—Communicating to providers of services and suppliers any information or instructions furnished to the medicare administrative contractor by the Secretary, and facilitating communication between such providers and suppliers and the Secretary.

''(F) PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.—Performing the functions relating to provider education, training, and technical assistance.

''(G) ADDITIONAL FUNCTIONS.—Performing such other functions as are necessary to carry out the purposes of this title.

''(5) RELATIONSHIP TO MIP CONTRACTS.—

''(A) NONDUPLICATION OF DUTIES.—In entering into contracts under this section, the Secretary shall assure that functions of medicare administrative contractors in carrying out activities under parts A and B do not duplicate activities carried out under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).

''(B) CONSTRUCTION.—An entity shall not be treated as a medicare administrative contractor merely by reason of having entered into a contract with the Secretary under section 1893.

''(6) APPLICATION OF FEDERAL ACQUISITION REGULATION.—Except to the extent inconsistent with a specific requirement of this title, the Federal Acquisition Regulation applies to contracts under this title.

''(b) CONTRACTING REQUIREMENTS.—

''(1) USE OF COMPETITIVE PROCEDURES.—

''(A) IN GENERAL.—Except as provided in laws with general applicability to Federal acquisition and procurement or in subparagraph (B), the Secretary shall use competitive procedures when entering into contracts with medicare administrative contractors under this section, taking into account performance quality as well as price and other factors.

''(B) RENEWAL OF CONTRACTS.—The Secretary may renew a contract with a medicare administrative contractor under this section from term to term without regard to section 5 of title 41, United States Code, or any other provision of law requiring competition, if the medicare administrative contractor has met or exceeded the performance requirements applicable with respect to the contract and contractor, except that the Secretary shall provide for the application of competitive procedures under such a contract not less frequently than once every five years.

''(C) TRANSFER OF FUNCTIONS.—The Secretary may transfer functions among medicare administrative contractors consistent with the provisions of this paragraph. The Secretary shall ensure that performance quality is considered in such transfers. The Secretary shall provide public notice (whether in the Federal Register or otherwise) of any such transfer (including a description of the functions so transferred, a description of the providers of services and suppliers affected by such transfer, and contact information for the contractors involved).

''(D) INCENTIVES FOR QUALITY.—The Secretary shall provide incentives for medicare administrative contractors to provide quality service and to promote efficiency.

''(2) COMPLIANCE WITH REQUIREMENTS.—No contract under this section shall be entered into with any medicare administrative contractor unless the Secretary finds that such medicare administrative contractor will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, quality of services provided, and other matters as the Secretary finds pertinent.

''(3) PERFORMANCE REQUIREMENTS.—

''(A) DEVELOPMENT OF SPECIFIC PERFORMANCE REQUIREMENTS.—In developing contract performance requirements, the Secretary shall develop performance requirements applicable to functions described in subsection (a)(4).

''(B) CONSULTATION.— In developing such requirements, the Secretary may consult with providers of services and suppliers, organizations representing individuals entitled to benefits under part A or enrolled under part B, or both, and organizations and agencies performing functions necessary to carry out the purposes of this section with respect to such performance requirements.

''(C) INCLUSION IN CONTRACTS.—All contractor performance requirements shall be set forth in the contract between the Secretary and the appropriate medicare administrative contractor. Such performance requirements—

''(i) shall reflect the performance requirements developed under subparagraph (A), but may include additional performance requirements;

''(ii) shall be used for evaluating contractor performance under the contract; and

''(iii) shall be consistent with the written statement of work provided under the contract.

''(4) INFORMATION REQUIREMENTS.—The Secretary shall not enter into a contract with a medicare administrative contractor under this section unless the contractor agrees—

''(A) to furnish to the Secretary such timely information and reports as the Secretary may find necessary in performing his functions under this title; and

''(B) to maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (A) and otherwise to carry out the purposes of this title.

''(5) SURETY BOND.—A contract with a medicare administrative contractor under this section may require the medicare administrative contractor, and any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

''(c) TERMS AND CONDITIONS.—

''(1) IN GENERAL.—A contract with any medicare administrative contractor under this section may contain such terms and conditions as the Secretary finds necessary or appropriate and may provide for advances of funds to the medicare administrative contractor for the making of payments by it under subsection (a)(4)(B).

''(2) PROHIBITION ON MANDATES FOR CERTAIN DATA COLLECTION.—The Secretary may not require, as a condition of entering into, or renewing, a contract under this section, that the medicare administrative contractor match data obtained other than in its activities under this title with data used in the administration of this title for purposes of identifying situations in which the provisions of section 1862(b) may apply.

''(d) LIMITATION ON LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS AND CERTAIN OFFICERS.—

''(1) CERTIFYING OFFICER.—No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by the individual under this section.

''(2) DISBURSING OFFICER.—No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by such officer under this section if it was based upon an authorization (which meets the applicable requirements for such internal controls established by the Comptroller General) of a certifying officer designated as provided in paragraph (1) of this subsection.

''(3) LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTOR.—No medicare administrative contractor shall be liable to the United States for a payment by a certifying or disbursing officer unless in connection with such payment or in the supervision of or selection of such officer the medicare administrative contractor acted with gross negligence.

''(4) INDEMNIFICATION BY SECRETARY.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (D), in the case of a medicare administrative contractor (or a person who is a director, officer, or employee of such a contractor or who is engaged by the contractor to participate directly in the claims administration process) who is made a party to any judicial or administrative proceeding arising from or relating directly to the claims administration process under this title, the Secretary may, to the extent the Secretary determines to be appropriate and as specified in the contract with the contractor, indemnify the contractor and such persons.

''(B) CONDITIONS.—The Secretary may not provide indemnification under subparagraph (A) insofar as the liability for such costs arises directly from conduct that is determined by the judicial proceeding or by the Secretary to be criminal in nature, fraudulent, or grossly negligent. If indemnification is provided by the Secretary with respect to a contractor before a determination that such costs arose directly from such conduct, the contractor shall reimburse the Secretary for costs of indemnification.

''(C) SCOPE OF INDEMNIFICATION.—Indemnification by the Secretary under subparagraph (A) may include payment of judgments, settlements (subject to subparagraph (D)), awards, and costs (including reasonable legal expenses).

''(D) WRITTEN APPROVAL FOR SETTLEMENTS.—A contractor or other person described in subparagraph (A) may not propose to negotiate a settlement or compromise of a proceeding described in such subparagraph without the prior written approval of the Secretary to negotiate such settlement or compromise. Any indemnification under subparagraph (A) with respect to amounts paid under a settlement or compromise of a proceeding described in such subparagraph are conditioned upon prior written approval by the Secretary of the final settlement or compromise.

''(E) CONSTRUCTION.—Nothing in this paragraph shall be construed—

''(i) to change any common law immunity that may be available to a medicare administrative contractor or person described in subparagraph (A); or

''(ii) to permit the payment of costs not otherwise allowable, reasonable, or allocable under the Federal Acquisition Regulations.''.

(2) CONSIDERATION OF INCORPORATION OF CURRENT LAW STANDARDS.—In developing contract performance requirements under section 1874A(b) of the Social Security Act, as inserted by paragraph (1), the Secretary shall consider inclusion of the performance standards described in sections 1816(f)(2) of

such Act (relating to timely processing of reconsiderations and applications for exemptions) and section 1842(b)(2)(B) of such Act (relating to timely review of determinations and fair hearing requests), as such sections were in effect before the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS TO SECTION 1816 (RELATING TO FISCAL INTERMEDIARIES).—Section 1816 (42 U.S.C. 1395h) is amended as follows:

(1) The heading is amended to read as follows:

''PROVISIONS RELATING TO THE ADMINISTRATION OF PART A''.

(2) Subsection (a) is amended to read as follows:

''(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.''.

(3) Subsection (b) is repealed.

(4) Subsection (c) is amended—

(A) by striking paragraph (1); and

(B) in each of paragraphs (2)(A) and (3)(A), by striking ''agreement under this section'' and inserting ''contract under section 1874A that provides for making payments under this part''.

(5) Subsections (d) through (i) are repealed.

(6) Subsections (j) and (k) are each amended—

(A) by striking ''An agreement with an agency or organization under this section'' and inserting ''A contract with a medicare administrative contractor under section 1874A with respect to the administration of this part''; and

(B) by striking ''such agency or organization'' and inserting ''such medicare administrative contractor'' each place it appears.

(7) Subsection (l) is repealed.

(c) CONFORMING AMENDMENTS TO SECTION 1842 (RELATING TO CARRIERS).—Section 1842 (42 U.S.C. 1395u) is amended as follows:

(1) The heading is amended to read as follows:

''PROVISIONS RELATING TO THE ADMINISTRATION OF PART B''.

(2) Subsection (a) is amended to read as follows:

''(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.''.

(3) Subsection (b) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2)—

(i) by striking subparagraphs (A) and (B);

(ii) in subparagraph (C), by striking ''carriers'' and inserting ''medicare administrative contractors''; and

(iii) by striking subparagraphs (D) and (E);

(C) in paragraph (3)—

(i) in the matter before subparagraph (A), by striking ''Each such contract shall provide that the carrier'' and inserting ''The Secretary'';

(ii) by striking ''will'' the first place it appears in each of subparagraphs (A), (B), (F), (G), (H), and (L) and inserting ''shall'';

(iii) in subparagraph (B), in the matter before clause (i), by striking ''to the policyholders and subscribers of the carrier'' and inserting ''to the policyholders and subscribers of the medicare administrative contractor'';

(iv) by striking subparagraphs (C), (D), and (E);

(v) in subparagraph (H)—

(I) by striking ''if it makes determinations or payments with respect to physicians' services,'' in the matter preceding clause (i); and

(II) by striking ''carrier'' and inserting ''medicare administrative contractor'' in clause (i);

(vi) by striking subparagraph (I);

(vii) in subparagraph (L), by striking the semicolon and inserting a period;

(viii) in the first sentence, after subparagraph (L), by striking ''and shall contain'' and all that follows through the period; and

(ix) in the seventh sentence, by inserting ''medicare administrative contractor,'' after ''carrier,''; and

(D) by striking paragraph (5);

(E) in paragraph (6)(D)(iv), by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(F) in paragraph (7), by striking ''the carrier'' and inserting ''the Secretary'' each place it appears.

(4) Subsection (c) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2)(A), by striking ''contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B),'' and inserting ''contract under section 1874A that provides for making payments under this part'';

(C) in paragraph (3)(A), by striking ''subsection (a)(1)(B)'' and inserting ''section 1874A(a)(3)(B)'';

(D) in paragraph (4), in the matter preceding subparagraph (A), by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(E) by striking paragraphs (5) and (6).

(5) Subsections (d), (e), and (f) are repealed.

(6) Subsection (g) is amended by striking ''carrier or carriers'' and inserting ''medicare administrative contractor or contractors''.

(7) Subsection (h) is amended—

(A) in paragraph (2)—

(i) by striking ''Each carrier having an agreement with the Secretary under subsection (a)'' and inserting ''The Secretary''; and

(ii) by striking ''Each such carrier'' and inserting ''The Secretary'';

(B) in paragraph (3)(A)—

(i) by striking ''a carrier having an agreement with the Secretary under subsection (a)'' and inserting ''medicare administrative contractor having a contract under section 1874A that provides for making payments under this part''; and

(ii) by striking ''such carrier'' and inserting ''such contractor'';

(C) in paragraph (3)(B)—

(i) by striking ''a carrier'' and inserting ''a medicare administrative contractor'' each place it appears; and

(ii) by striking ''the carrier'' and inserting ''the contractor'' each place it appears; and

(D) in paragraphs (5)(A) and (5)(B)(iii), by striking ''carriers'' and inserting ''medicare administrative contractors'' each place it appears.

(8) Subsection (l) is amended—

(A) in paragraph (1)(A)(iii), by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(B) in paragraph (2), by striking ''carrier'' and inserting ''medicare administrative contractor''.

(9) Subsection (p)(3)(A) is amended by striking ''carrier'' and inserting ''medicare administrative contractor''.

(10) Subsection (q)(1)(A) is amended by striking ''carrier''.

(d) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 2004, and the Secretary is authorized to take such steps before such date as may be necessary to implement such amendments on a timely basis.

(B) CONSTRUCTION FOR CURRENT CONTRACTS.—Such amendments shall not apply to contracts in effect before the date specified under subparagraph (A) that continue to retain the terms and conditions in effect on such date (except as otherwise provided under this Act, other than under this section) until such date as the contract is let out for competitive bidding under such amendments.

(C) DEADLINE FOR COMPETITIVE BIDDING.—The Secretary shall provide for the letting by competitive bidding of all contracts for functions of medicare administrative contractors for annual contract periods that begin on or after October 1, 2009.

(D) WAIVER OF PROVIDER NOMINATION PROVISIONS DURING TRANSITION.—During the period beginning on the date of the enactment of this Act and before the date specified under subparagraph (A), the Secretary may enter into new agreements under section 1816 of the Social Security Act (42 U.S.C. 1395h) without regard to any of the provider nomination provisions of such section.

(2) GENERAL TRANSITION RULES.—The Secretary shall take such steps, consistent with paragraph (1)(B) and (1)(C), as are necessary to provide for an appropriate transition from contracts under section 1816 and section 1842 of the Social Security Act (42 U.S.C. 1395h, 1395u) to contracts under section 1874A, as added by subsection (a)(1).

(3) AUTHORIZING CONTINUATION OF MIP FUNCTIONS UNDER CURRENT CONTRACTS AND AGREEMENTS AND UNDER ROLLOVER CONTRACTS.—The provisions contained in the exception in section 1893(d)(2) of the Social Security Act (42 U.S.C. 1395ddd(d)(2)) shall continue to apply notwithstanding the amendments made by this section, and any reference in such provisions to an agreement or contract shall be deemed to include a contract under section 1874A of such Act, as inserted by subsection (a)(1), that continues the activities referred to in such provisions.

(e) REFERENCES.—On and after the effective date provided under subsection (d)(1), any reference to a fiscal intermediary or carrier under title XI or XVIII of the Social Security Act (or any regulation, manual instruction, interpretative rule, statement of policy, or guideline issued to carry out such titles) shall be deemed a reference to an appropriate medicare administrative contractor (as provided under section 1874A of the Social Security Act).

(f) REPORTS ON IMPLEMENTATION.—

(1) PLAN FOR IMPLEMENTATION.—By not later than October 1, 2003, the Secretary shall submit a report to Congress and the Comptroller General of the United States that describes the plan for implementation of the amendments made by this section. The Comptroller General shall conduct an evaluation of such plan and shall submit to Congress, not later than 6 months after the date the report is received, a report on such evaluation and shall include in such report such recommendations as the Comptroller General deems appropriate.

(2) STATUS OF IMPLEMENTATION.—The Secretary shall submit a report to Congress not later than October 1, 2007, that describes the status of implementation of such amendments and that includes a description of the following:

(A) The number of contracts that have been competitively bid as of such date.

(B) The distribution of functions among contracts and contractors.

(C) A timeline for complete transition to full competition.

(D) A detailed description of how the Secretary has modified oversight and management of medicare contractors to adapt to full competition.

SEC. 812. REQUIREMENTS FOR INFORMATION SECURITY FOR MEDICARE ADMINISTRATIVE CONTRACTORS.

(a) IN GENERAL.—Section 1874A, as added by section 811(a)(1), is amended by adding at the end the following new subsection:

''(e) REQUIREMENTS FOR INFORMATION SECURITY.—

''(1) DEVELOPMENT OF INFORMATION SECURITY PROGRAM.—A medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall implement a contractor-wide information security program to provide information security for the operation and assets of the contractor with respect to such functions under this title. An information security program under this paragraph shall meet the requirements for information security programs imposed on Federal agencies under section 3534(b)(2) of title 44, United States Code (other than requirements under subparagraphs (B)(ii), (F)(iii), and (F)(iv) of such section).

''(2) INDEPENDENT AUDITS.—

''(A) PERFORMANCE OF ANNUAL EVALUATIONS.—Each year a medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall undergo an evaluation of the information security of the contractor with respect to such functions under this title. The evaluation shall—

''(i) be performed by an entity that meets such requirements for independence as the Inspector General of the Department of Health and Human Services may establish; and

''(ii) test the effectiveness of information security control techniques for an appropriate subset of the contractor's information systems (as defined in section 3502(8) of title 44, United States Code) relating to such functions under this title and an assessment of compliance with the requirements of this subsection and related information security policies, procedures, standards and guidelines.

''(B) DEADLINE FOR INITIAL EVALUATION.—

''(i) NEW CONTRACTORS.—In the case of a medicare administrative contractor covered by this subsection that has not previously performed the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) as a fiscal intermediary or carrier under section 1816 or 1842, the first independent evaluation conducted pursuant subparagraph (A) shall be completed prior to commencing such functions.

''(ii) OTHER CONTRACTORS.—In the case of a medicare administrative contractor covered by this subsection that is not described in clause (i), the first independent evaluation conducted pursuant subparagraph (A) shall be completed within 1 year after the date the contractor commences functions referred to in clause (i) under this section.

''(C) REPORTS ON EVALUATIONS.—

''(i) TO THE INSPECTOR GENERAL.—The results of independent evaluations under subparagraph (A) shall be submitted promptly to the Inspector General of the Department of Health and Human Services.

''(ii) TO CONGRESS.—The Inspector General of Department of Health and Human Services shall submit to Congress annual reports on the results of such evaluations.''.

(b) APPLICATION OF REQUIREMENTS TO FISCAL INTERMEDIARIES AND CARRIERS.—

(1) IN GENERAL.—The provisions of section 1874A(e)(2) of the Social Security Act (other than subparagraph (B)), as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(2) DEADLINE FOR INITIAL EVALUATION.—In the case of such a fiscal intermediary or carrier with an agreement or contract under such respective section in effect as of the date of the enactment of this Act, the first evaluation under section 1874A(e)(2)(A) of the Social Security Act (as added by subsection (a)), pursuant to paragraph (1), shall be completed (and a report on the evaluation submitted to the Secretary) by not later than 1 year after such date.

Subtitle C—Education and Outreach

SEC. 821. PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.

(a) COORDINATION OF EDUCATION FUNDING.—

(1) IN GENERAL.—The Social Security Act is amended by inserting after section 1888 the following new section:

''PROVIDER EDUCATION AND TECHNICAL ASSISTANCE

''SEC. 1889. (a) COORDINATION OF EDUCATION FUNDING.—The Secretary shall coordinate the educational activities provided through medicare contractors (as defined in subsection (g), including under section 1893) in order to maximize the effectiveness of Federal education efforts for providers of services and suppliers.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(3) REPORT.—Not later than October 1, 2003, the Secretary shall submit to Congress a report that includes a description and evaluation of the steps taken to coordinate the funding of provider education under section 1889(a) of the Social Security Act, as added by paragraph (1).

(b) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE.—

(1) IN GENERAL.—Section 1874A, as added by section 811(a)(1) and as amended by section 812(a), is amended by adding at the end the following new subsection:

''(f) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE IN PROVIDER EDUCATION AND OUTREACH.—In order to give medicare administrative contractors an incentive to implement effective education and outreach programs for providers of services and suppliers, the Secretary shall develop and implement a methodology to measure the specific claims payment error rates of such contractors in the processing or reviewing of medicare claims.''.

(2) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(f) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(3) GAO REPORT ON ADEQUACY OF METHODOLOGY.—Not later than October 1, 2003, the Comptroller General of the United States shall submit to Congress and to the Secretary a report on the adequacy of the methodology under section 1874A(f) of the Social Security Act, as added by paragraph (1), and shall include in the report such recommendations as the Comptroller General determines appropriate with respect to the methodology.

(4) REPORT ON USE OF METHODOLOGY IN ASSESSING CONTRACTOR PERFORMANCE.—Not later than October 1, 2003, the Secretary shall submit to Congress a report that describes how the Secretary intends to use such methodology in assessing medicare contractor performance in implementing effective education and outreach programs, including whether to use such methodology as a basis for performance bonuses. The report shall include an analysis of the sources of identified errors and potential changes in systems of contractors and rules of the Secretary that could reduce claims error rates.

(c) PROVISION OF ACCESS TO AND PROMPT RESPONSES FROM MEDICARE ADMINISTRATIVE CONTRACTORS.—

(1) IN GENERAL.—Section 1874A, as added by section 811(a)(1) and as amended by section 812(a) and subsection (b), is further amended by adding at the end the following new subsection:

''(g) COMMUNICATIONS WITH BENEFICIARIES, PROVIDERS OF SERVICES AND SUPPLIERS.—

''(1) COMMUNICATION STRATEGY.—The Secretary shall develop a strategy for communications with individuals entitled to benefits under part A or enrolled under part B, or both, and with providers of services and suppliers under this title.

''(2) RESPONSE TO WRITTEN INQUIRIES.—Each medicare administrative contractor shall, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, provide general written responses (which may be through electronic transmission) in a clear, concise, and accurate manner to inquiries of providers of services, suppliers and individuals entitled to benefits under part A or enrolled under part B, or both, concerning the programs under this title within 45 business days of the date of receipt of such inquiries.

''(3) RESPONSE TO TOLL-FREE LINES.—The Secretary shall ensure that each medicare administrative contractor shall provide, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, a toll-free telephone number at which such individuals, providers of services and suppliers may obtain information regarding billing, coding, claims, coverage, and other appropriate information under this title.

''(4) MONITORING OF CONTRACTOR RESPONSES.—

''(A) IN GENERAL.—Each medicare administrative contractor shall, consistent with standards developed by the Secretary under subparagraph (B)—

''(i) maintain a system for identifying who provides the information referred to in paragraphs (2) and (3); and

''(ii) monitor the accuracy, consistency, and timeliness of the information so provided.

''(B) DEVELOPMENT OF STANDARDS.—

''(i) IN GENERAL.—The Secretary shall establish and make public standards to monitor the accuracy, consistency, and timeliness of the information provided in response to written and telephone inquiries under this subsection. Such standards shall be consistent with the performance requirements established under subsection (b)(3).

''(ii) EVALUATION.—In conducting evaluations of individual medicare administrative contractors, the Secretary shall take into account the results of the monitoring conducted under subparagraph (A) taking into account as performance requirements the standards established under clause (i). The Secretary shall, in consultation with organizations representing providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or

both, establish standards relating to the accuracy, consistency, and timeliness of the information so provided.

''(C) DIRECT MONITORING.—Nothing in this paragraph shall be construed as preventing the Secretary from directly monitoring the accuracy, consistency, and timeliness of the information so provided.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 2003.

(3) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(g) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(d) IMPROVED PROVIDER EDUCATION AND TRAINING.—

(1) IN GENERAL.—Section 1889, as added by subsection (a), is amended by adding at the end the following new subsections:

''(b) ENHANCED EDUCATION AND TRAINING.—

''(1) ADDITIONAL RESOURCES.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) $25,000,000 for each of fiscal years 2004 and 2005 and such sums as may be necessary for succeeding fiscal years.

''(2) USE.—The funds made available under paragraph (1) shall be used to increase the conduct by medicare contractors of education and training of providers of services and suppliers regarding billing, coding, and other appropriate items and may also be used to improve the accuracy, consistency, and timeliness of contractor responses.

''(c) TAILORING EDUCATION AND TRAINING ACTIVITIES FOR SMALL PROVIDERS OR SUPPLIERS.—

''(1) IN GENERAL.—Insofar as a medicare contractor conducts education and training activities, it shall tailor such activities to meet the special needs of small providers of services or suppliers (as defined in paragraph (2)).

''(2) SMALL PROVIDER OF SERVICES OR SUPPLIER.—In this subsection, the term 'small provider of services or supplier' means—

''(A) a provider of services with fewer than 25 full-time-equivalent employees; or

''(B) a supplier with fewer than 10 full-time-equivalent employees.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2003.

(e) REQUIREMENT TO MAINTAIN INTERNET SITES.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsection (d), is further amended by adding at the end the following new subsection:

''(d) INTERNET SITES; FAQS.—The Secretary, and each medicare contractor insofar as it provides services (including claims processing) for providers of services or suppliers, shall maintain an Internet site which—

''(1) provides answers in an easily accessible format to frequently asked questions, and

''(2) includes other published materials of the contractor,

that relate to providers of services and suppliers under the programs under this title (and title XI insofar as it relates to such programs).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2003.

(f) ADDITIONAL PROVIDER EDUCATION PROVISIONS.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsections (d) and (e), is further amended by adding at the end the following new subsections:

''(e) ENCOURAGEMENT OF PARTICIPATION IN EDUCATION PROGRAM ACTIVITIES.—A medicare contractor may not use a record of attendance at (or failure to attend) educational activities or other information gathered during an educational program conducted under this section or otherwise by the Secretary to select or track providers of services or suppliers for the purpose of conducting any type of audit or prepayment review.

''(f) CONSTRUCTION.—Nothing in this section or section 1893(g) shall be construed as providing for disclosure by a medicare contractor of information that would compromise pending law enforcement activities or reveal findings of law enforcement-related audits.

''(g) DEFINITIONS.—For purposes of this section, the term 'medicare contractor' includes the following:

''(1) A medicare administrative contractor with a contract under section 1874A, including a fiscal intermediary with a contract under section 1816 and a carrier with a contract under section 1842.

''(2) An eligible entity with a contract under section 1893.

Such term does not include, with respect to activities of a specific provider of services or supplier an entity that has no authority under this title or title IX with respect to such activities and such provider of services or supplier.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 822. SMALL PROVIDER TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a demonstration program (in this section referred to as the ''demonstration program'') under which technical assistance described in paragraph (2) is made available, upon request and on a voluntary basis, to small providers of services or suppliers in order to improve compliance with the applicable requirements of the programs under medicare program under title XVIII of the Social Security Act (including provisions of title XI of such Act insofar as they relate to such title and are not administered by the Office of the Inspector General of the Department of Health and Human Services).

(2) FORMS OF TECHNICAL ASSISTANCE.—The technical assistance described in this paragraph is—

(A) evaluation and recommendations regarding billing and related systems; and

(B) information and assistance regarding policies and procedures under the medicare program, including coding and reimbursement.

(3) SMALL PROVIDERS OF SERVICES OR SUPPLIERS.—In this section, the term ''small providers of services or suppliers'' means—

(A) a provider of services with fewer than 25 full-time-equivalent employees; or

(B) a supplier with fewer than 10 full-time-equivalent employees.

(b) QUALIFICATION OF CONTRACTORS.—In conducting the demonstration program, the Secretary shall enter into contracts with qualified organizations (such as peer review organizations or entities described in section 1889(g)(2) of the Social Security Act, as inserted by section 5(f)(1)) with appropriate expertise with billing systems of the full range of providers of services and suppliers to provide the technical assistance. In awarding such contracts, the Secretary shall consider any prior investigations of the entity's work by the Inspector General of Department of Health and Human Services or the Comptroller General of the United States.

(c) DESCRIPTION OF TECHNICAL ASSISTANCE.—The technical assistance provided under the demonstration program shall include a direct and in-person examination of billing systems and internal controls of small providers of services or suppliers to determine program compliance and to suggest more efficient or effective means of achieving such compliance.

(d) AVOIDANCE OF RECOVERY ACTIONS FOR PROBLEMS IDENTIFIED AS CORRECTED.—The Secretary shall provide that, absent evidence of fraud and notwithstanding any other provision of law, any errors found in a compliance review for a small provider of services or supplier that participates in the demonstration program shall not be subject to recovery action if the technical assistance personnel under the program determine that—

(1) the problem that is the subject of the compliance review has been corrected to their satisfaction within 30 days of the date of the visit by such personnel to the small provider of services or supplier; and

(2) such problem remains corrected for such period as is appropriate.

The previous sentence applies only to claims filed as part of the demonstration program and lasts only for the duration of such program and only as long as the small provider of services or supplier is a participant in such program.

(e) GAO EVALUATION.—Not later than 2 years after the date of the date the demonstration program is first implemented, the Comptroller General, in consultation with the Inspector General of the Department of Health and Human Services, shall conduct an evaluation of the demonstration program. The evaluation shall include a determination of whether claims error rates are reduced for small providers of services or suppliers who participated in the program and the extent of improper payments made as a result of the demonstration program. The Comptroller General shall submit a report to the Secretary and the Congress on such evaluation and shall include in such report recommendations regarding the continuation or extension of the demonstration program.

(f) FINANCIAL PARTICIPATION BY PROVIDERS.—The provision of technical assistance to a small provider of services or supplier under the demonstration program is conditioned upon the small provider of services or supplier paying an amount estimated (and disclosed in advance of a provider's or supplier's participation in the program) to be equal to 25 percent of the cost of the technical assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the demonstration program—

(1) for fiscal year 2004, $1,000,000, and

(2) for fiscal year 2005, $6,000,000.

SEC. 823. MEDICARE PROVIDER OMBUDSMAN; MEDICARE BENEFICIARY OMBUDSMAN.

(a) MEDICARE PROVIDER OMBUDSMAN.—Section 1868 (42 U.S.C. 1395ee) is amended—

(1) by adding at the end of the heading the following: ''; MEDICARE PROVIDER OMBUDSMAN'';

(2) by inserting ''PRACTICING PHYSICIANS ADVISORY COUNCIL.—(1)'' after ''(a)'';

(3) in paragraph (1), as so redesignated under paragraph (2), by striking ''in this section'' and inserting ''in this subsection'';

(4) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively; and

(5) by adding at the end the following new subsection:

''(b) MEDICARE PROVIDER OMBUDSMAN.—The Secretary shall appoint within the Department of Health and Human Services a Medicare Provider Ombudsman. The Ombudsman shall—

''(1) provide assistance, on a confidential basis, to providers of services and suppliers with respect to complaints, grievances, and requests for information concerning the programs under this title (including provisions of title XI insofar as they relate to this title and are not administered by the Office of the Inspector General of the Department of Health and Human Services) and in the resolution of unclear or conflicting guidance given by the Secretary and medicare contractors to such providers of services and suppliers regarding such programs and provisions and requirements under this title and such provisions; and

''(2) submit recommendations to the Secretary for improvement in the administration of this title and such provisions, including—

''(A) recommendations to respond to recurring patterns of confusion in this title and such provisions (including recommendations regarding suspending imposition of sanctions where there is widespread confusion in program administration), and

''(B) recommendations to provide for an appropriate and consistent response (including not providing for audits) in cases of self-identified overpayments by providers of services and suppliers.

The Ombudsman shall not serve as an advocate for any increases in payments or new coverage of services, but may identify issues and problems in payment or coverage policies.''.

(b) MEDICARE BENEFICIARY OMBUDSMAN.—Title XVIII, as amended by sections 105 and 701, is amended by inserting after section 1808 the following new section:

''MEDICARE BENEFICIARY OMBUDSMAN

''SEC. 1809. (a) IN GENERAL.—The Secretary shall appoint within the Department of Health and Human Services a Medicare Beneficiary Ombudsman who shall have expertise and experience in the fields of health care and education of (and assistance to) individuals entitled to benefits under this title.

''(b) DUTIES.—The Medicare Beneficiary Ombudsman shall—

''(1) receive complaints, grievances, and requests for information submitted by individuals entitled to benefits under part A or enrolled under part B, or both, with respect to any aspect of the medicare program;

''(2) provide assistance with respect to complaints, grievances, and requests referred to in paragraph (1), including—

''(A) assistance in collecting relevant information for such individuals, to seek an appeal of a decision or determination made by a fiscal intermediary, carrier, Medicare+Choice organization, or the Secretary; and

''(B) assistance to such individuals with any problems arising from disenrollment from a Medicare+Choice plan under part C; and

''(3) submit annual reports to Congress and the Secretary that describe the activities of the Office and that include such recommendations for improvement in the administration of this title as the Ombudsman determines appropriate.

The Ombudsman shall not serve as an advocate for any increases in payments or new coverage of services, but may identify issues and problems in payment or coverage policies.

''(c) WORKING WITH HEALTH INSURANCE COUNSELING PROGRAMS.—To the extent possible, the Ombudsman shall work with health insurance counseling programs (receiving funding under section 4360 of Omnibus Budget Reconciliation Act of 1990) to facilitate the provision of information to individuals entitled to benefits under part A or enrolled under part B, or both regarding Medicare+Choice plans and changes to those plans. Nothing in this subsection shall preclude further collaboration between the Ombudsman and such programs.''.

(c) DEADLINE FOR APPOINTMENT.—The Secretary shall appoint the Medicare Provider Ombudsman and the Medicare Beneficiary Ombudsman, under the amendments made by subsections (a) and (b), respectively, by not later than 1 year after the date of the enactment of this Act.

(d) FUNDING.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the provisions of subsection (b) of section 1868 of the Social Security Act (relating to the Medicare Provider Ombudsman), as added by subsection (a)(5) and section 1809 of such Act (relating to the Medicare Beneficiary Ombudsman), as added by subsection (b), such sums as are necessary for fiscal year 2003 and each succeeding fiscal year.

(e) USE OF CENTRAL, TOLL-FREE NUMBER (1-800-MEDICARE).—

(1) PHONE TRIAGE SYSTEM; LISTING IN MEDICARE HANDBOOK INSTEAD OF OTHER TOLL-FREE NUMBERS.—Section 1804(b) (42 U.S.C. 1395b–2(b)) is amended by adding at the end the following: ''The Secretary shall provide, through the toll-free number 1-800-MEDICARE, for a means by which individuals seeking information about, or assistance with, such programs who phone such toll-free number are transferred (without charge) to appropriate entities for the provision of such information or assistance. Such toll-free number shall be the toll-free number listed for general information and assistance in the annual notice under subsection (a) instead of the listing of numbers of individual contractors.''.

(2) MONITORING ACCURACY.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study to monitor the accuracy and consistency of information provided to individuals entitled to benefits under part A or enrolled under part B, or both, through the toll-free number 1-800-MEDICARE, including an assessment of whether the information provided is sufficient to answer questions of such individuals. In conducting the study, the Comptroller General shall examine the education and training of the individuals providing information through such number.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subparagraph (A).

SEC. 824. BENEFICIARY OUTREACH DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a demonstration program (in this section referred to as the ''demonstration program'') under which medicare specialists employed by the Department of Health and Human Services provide advice and assistance to individuals entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both, regarding the medicare program at the location of existing local offices of the Social Security Administration.

(b) LOCATIONS.—

(1) IN GENERAL.—The demonstration program shall be conducted in at least 6 offices or areas. Subject to paragraph (2), in selecting such offices and areas, the Secretary shall provide preference for offices with a high volume of visits by individuals referred to in subsection (a).

(2) ASSISTANCE FOR RURAL BENEFICIARIES.—The Secretary shall provide for the selection of at least 2 rural areas to participate in the demonstration program. In conducting the demonstration program in such rural areas, the Secretary shall provide for medicare specialists to travel among local offices in a rural area on a scheduled basis.

(c) DURATION.—The demonstration program shall be conducted over a 3-year period.

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall provide for an evaluation of the demonstration program. Such evaluation shall include an analysis of—

(A) utilization of, and satisfaction of those individuals referred to in subsection (a) with, the assistance provided under the program; and

(B) the cost-effectiveness of providing beneficiary assistance through out-stationing medicare specialists at local offices of the Social Security Administration.

(2) REPORT.—The Secretary shall submit to Congress a report on such evaluation and shall include in such report recommendations regarding the feasibility of permanently out-stationing medicare specialists at local offices of the Social Security Administration.

Subtitle D—Appeals and Recovery

SEC. 831. TRANSFER OF RESPONSIBILITY FOR MEDICARE APPEALS.

(a) TRANSITION PLAN.—

(1) IN GENERAL.—Not later than October 1, 2003, the Commissioner of Social Security and the Secretary shall develop and transmit to Congress and the Comptroller General of the United States a plan under which the functions of administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions in title XI of such Act) are transferred from the responsibility of the Commissioner and the Social Security Administration to the Secretary and the Department of Health and Human Services.

(2) GAO EVALUATION.—The Comptroller General of the United States shall evaluate the plan and, not later than the date that is 6 months after the date on which the plan is received by the Comptroller General, shall submit to Congress a report on such evaluation.

(b) TRANSFER OF ADJUDICATION AUTHORITY.—

(1) IN GENERAL.—Not earlier than July 1, 2004, and not later than October 1, 2004, the Commissioner of Social Security and the Secretary shall implement the transition plan under subsection (a) and transfer the administrative law judge functions described in such subsection from the Social Security Administration to the Secretary.

(2) ASSURING INDEPENDENCE OF JUDGES.—The Secretary shall assure the independence of administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Centers for Medicare & Medicaid Services and its contractors.

(3) GEOGRAPHIC DISTRIBUTION.—The Secretary shall provide for an appropriate geographic distribution of administrative law judges performing the administrative law judge functions transferred under paragraph (1) throughout the United States to ensure timely access to such judges.

(4) HIRING AUTHORITY.—Subject to the amounts provided in advance in appropriations Act, the Secretary shall have authority to hire administrative law judges to hear such cases, giving priority to those judges with prior experience in handling medicare

appeals and in a manner consistent with paragraph (3), and to hire support staff for such judges.

(5) FINANCING.—Amounts payable under law to the Commissioner for administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund shall become payable to the Secretary for the functions so transferred.

(6) SHARED RESOURCES.—The Secretary shall enter into such arrangements with the Commissioner as may be appropriate with respect to transferred functions of administrative law judges to share office space, support staff, and other resources, with appropriate reimbursement from the Trust Funds described in paragraph (5).

(c) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, to ensure timely action on appeals before administrative law judges and the Departmental Appeals Board consistent with section 1869 of the Social Security Act (as amended by section 521 of BIPA, 114 Stat. 2763A–534), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary such sums as are necessary for fiscal year 2004 and each subsequent fiscal year to—

(1) increase the number of administrative law judges (and their staffs) under subsection (b)(4);

(2) improve education and training opportunities for administrative law judges (and their staffs); and

(3) increase the staff of the Departmental Appeals Board.

(d) CONFORMING AMENDMENT.—Section 1869(f)(2)(A)(i) (42 U.S.C. 1395ff(f)(2)(A)(i)), as added by section 522(a) of BIPA (114 Stat. 2763A–543), is amended by striking ''of the Social Security Administration''.

SEC. 832. PROCESS FOR EXPEDITED ACCESS TO REVIEW.

(a) EXPEDITED ACCESS TO JUDICIAL REVIEW.—Section 1869(b) (42 U.S.C. 1395ff(b)) as amended by BIPA, is amended—

(1) in paragraph (1)(A), by inserting '', subject to paragraph (2),'' before ''to judicial review of the Secretary's final decision'';

(2) in paragraph (1)(F)—

(A) by striking clause (ii);

(B) by striking ''PROCEEDING'' and all that follows through ''DETERMINATION'' and inserting ''DETERMINATIONS AND RECONSIDERATIONS''; and

(C) by redesignating subclauses (I) and (II) as clauses (i) and (ii) and by moving the indentation of such subclauses (and the matter that follows) 2 ems to the left; and

(3) by adding at the end the following new paragraph:

''(2) EXPEDITED ACCESS TO JUDICIAL REVIEW.—

''(A) IN GENERAL.—The Secretary shall establish a process under which a provider of services or supplier that furnishes an item or service or an individual entitled to benefits under part A or enrolled under part B, or both, who has filed an appeal under paragraph (1) may obtain access to judicial review when a review panel (described in subparagraph (D)), on its own motion or at the request of the appellant, determines that no entity in the administrative appeals process has the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to a question of law or regulation in a case of an appeal.

''(B) PROMPT DETERMINATIONS.—If, after or coincident with appropriately filing a request for an administrative hearing, the appellant requests a determination by the appropriate review panel that no review panel has the authority to decide the question of law or regulations relevant to the matters in controversy and that there is no material issue of fact in dispute and if such request is accompanied by the documents and materials as the appropriate review panel shall require for purposes of making such determination, such review panel shall make a determination on the request in writing within 60 days after the date such review panel receives the request and such accompanying documents and materials. Such a determination by such review panel shall be considered a final decision and not subject to review by the Secretary.

''(C) ACCESS TO JUDICIAL REVIEW.—

''(i) IN GENERAL.—If the appropriate review panel—

''(I) determines that there are no material issues of fact in dispute and that the only issue is one of law or regulation that no review panel has the authority to decide; or

''(II) fails to make such determination within the period provided under subparagraph (B);

then the appellant may bring a civil action as described in this subparagraph.

''(ii) DEADLINE FOR FILING.—Such action shall be filed, in the case described in—

''(I) clause (i)(I), within 60 days of date of the determination described in such subparagraph; or

''(II) clause (i)(II), within 60 days of the end of the period provided under subparagraph (B) for the determination.

''(iii) VENUE.—Such action shall be brought in the district court of the United States for the judicial district in which the appellant is located (or, in the case of an action brought jointly by more than one applicant, the judicial district in which the greatest number of applicants are located) or in the district court for the District of Columbia.

''(iv) INTEREST ON AMOUNTS IN CONTROVERSY.—Where a provider of services or supplier seeks judicial review pursuant to this paragraph, the amount in controversy shall be subject to annual interest beginning on the first day of the first month beginning after the 60-day period as determined pursuant to clause (ii) and equal to the rate of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund and by the Federal Supplementary Medical Insurance Trust Fund for the month in which the civil action authorized under this paragraph is commenced, to be awarded by the reviewing court in favor of the prevailing party. No interest awarded pursuant to the preceding sentence shall be deemed income or cost for the purposes of determining reimbursement due providers of services or suppliers under this Act.

''(D) REVIEW PANELS.—For purposes of this subsection, a 'review panel' is a panel consisting of 3 members (who shall be administrative law judges, members of the Departmental Appeals Board, or qualified individuals associated with a qualified independent contractor (as defined in subsection (c)(2)) or with another independent entity) designated by the Secretary for purposes of making determinations under this paragraph.''.

(b) APPLICATION TO PROVIDER AGREEMENT DETERMINATIONS.—Section 1866(h)(1) (42 U.S.C. 1395cc(h)(1)) is amended—

(1) by inserting ''(A)'' after ''(h)(1)''; and

(2) by adding at the end the following new subparagraph:

''(B) An institution or agency described in subparagraph (A) that has filed for a hearing under subparagraph (A) shall have expedited access to judicial review under this subparagraph in the same manner as providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, may obtain expedited access to judicial review under the process established under section 1869(b)(2). Nothing in this subparagraph shall be construed to affect the application of any remedy imposed under section 1819 during the pendency of an appeal under this subparagraph.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to appeals filed on or after October 1, 2003.

(d) EXPEDITED REVIEW OF CERTAIN PROVIDER AGREEMENT DETERMINATIONS.—

(1) TERMINATION AND CERTAIN OTHER IMMEDIATE REMEDIES.—The Secretary shall develop and implement a process to expedite proceedings under sections 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)) in which the remedy of termination of participation, or a remedy described in clause (i) or (iii) of section 1819(h)(2)(B) of such Act (42 U.S.C. 1395i–3(h)(2)(B)) which is applied on an immediate basis, has been imposed. Under such process priority shall be provided in cases of termination.

(2) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, to reduce by 50 percent the average time for administrative determinations on appeals under section 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary such additional sums for fiscal year 2004 and each subsequent fiscal year as may be necessary. The purposes for which such amounts are available include increasing the number of administrative law judges (and their staffs) and the appellate level staff at the Departmental Appeals Board of the Department of Health and Human Services and educating such judges and staffs on long-term care issues.

SEC. 833. REVISIONS TO MEDICARE APPEALS PROCESS.

(a) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE.—

(1) IN GENERAL.—Section 1869(b) (42 U.S.C. 1395ff(b)), as amended by BIPA and as amended by section 832(a), is further amended by adding at the end the following new paragraph:

''(3) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE BY PROVIDERS.—A provider of services or supplier may not introduce evidence in any appeal under this section that was not presented at the reconsideration conducted by the qualified independent contractor under subsection (c), unless there is good cause which precluded the introduction of such evidence at or before that reconsideration.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2003.

(b) USE OF PATIENTS' MEDICAL RECORDS.—Section 1869(c)(3)(B)(i) (42 U.S.C. 1395ff(c)(3)(B)(i)), as amended by BIPA, is amended by inserting ''(including the medical records of the individual involved)'' after ''clinical experience''.

(c) NOTICE REQUIREMENTS FOR MEDICARE APPEALS.—

(1) INITIAL DETERMINATIONS AND REDETERMINATIONS.—Section 1869(a) (42 U.S.C. 1395ff(a)), as amended by BIPA, is amended by adding at the end the following new paragraph:

''(4) REQUIREMENTS OF NOTICE OF DETERMINATIONS AND REDETERMINATIONS.—A written notice of a determination on an initial

determination or on a redetermination, insofar as such determination or redetermination results in a denial of a claim for benefits, shall include—

''(A) the specific reasons for the determination, including—

''(i) upon request, the provision of the policy, manual, or regulation used in making the determination; and

''(ii) as appropriate in the case of a redetermination, a summary of the clinical or scientific evidence used in making the determination;

''(B) the procedures for obtaining additional information concerning the determination or redetermination; and

''(C) notification of the right to seek a redetermination or otherwise appeal the determination and instructions on how to initiate such a redetermination or appeal under this section.

The written notice on a redetermination shall be provided in printed form and written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both.''.

(2) RECONSIDERATIONS.—Section 1869(c)(3)(E) (42 U.S.C. 1395ff(c)(3)(E)), as amended by BIPA, is amended—

(A) by inserting ''be written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include (to the extent appropriate)'' after ''in writing, ''; and

(B) by inserting ''and a notification of the right to appeal such determination and instructions on how to initiate such appeal under this section'' after ''such decision, ''.

(3) APPEALS.—Section 1869(d) (42 U.S.C. 1395ff(d)), as amended by BIPA, is amended—

(A) in the heading, by inserting ''; NOTICE'' after ''SECRETARY''; and

(B) by adding at the end the following new paragraph:

''(4) NOTICE.—Notice of the decision of an administrative law judge shall be in writing in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include—

''(A) the specific reasons for the determination (including, to the extent appropriate, a summary of the clinical or scientific evidence used in making the determination);

''(B) the procedures for obtaining additional information concerning the decision; and

''(C) notification of the right to appeal the decision and instructions on how to initiate such an appeal under this section.''.

(4) SUBMISSION OF RECORD FOR APPEAL.—Section 1869(c)(3)(J)(i) (42 U.S.C. 1395ff(c)(3)(J)(i)) by striking ''prepare'' and inserting ''submit'' and by striking ''with respect to'' and all that follows through ''and relevant policies''.

(d) QUALIFIED INDEPENDENT CONTRACTORS.—

(1) ELIGIBILITY REQUIREMENTS OF QUALIFIED INDEPENDENT CONTRACTORS.—Section 1869(c)(3) (42 U.S.C. 1395ff(c)(3)), as amended by BIPA, is amended—

(A) in subparagraph (A), by striking ''sufficient training and expertise in medical science and legal matters'' and inserting ''sufficient medical, legal, and other expertise (including knowledge of the program under this title) and sufficient staffing''; and

(B) by adding at the end the following new subparagraph:

''(K) INDEPENDENCE REQUIREMENTS.—

''(i) IN GENERAL.—Subject to clause (ii), a qualified independent contractor shall not conduct any activities in a case unless the entity—

''(I) is not a related party (as defined in subsection (g)(5));

''(II) does not have a material familial, financial, or professional relationship with such a party in relation to such case; and

''(III) does not otherwise have a conflict of interest with such a party.

''(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified independent contractor of compensation from the Secretary for the conduct of activities under this section if the compensation is provided consistent with clause (iii).

''(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by the Secretary to a qualified independent contractor in connection with reviews under this section shall not be contingent on any decision rendered by the contractor or by any reviewing professional.''.

(2) ELIGIBILITY REQUIREMENTS FOR REVIEWERS.—Section 1869 (42 U.S.C. 1395ff), as amended by BIPA, is amended—

(A) by amending subsection (c)(3)(D) to read as follows:

''(D) QUALIFICATIONS FOR REVIEWERS.—The requirements of subsection (g) shall be met (relating to qualifications of reviewing professionals).''; and

(B) by adding at the end the following new subsection:

''(g) QUALIFICATIONS OF REVIEWERS.—

''(1) IN GENERAL.—In reviewing determinations under this section, a qualified independent contractor shall assure that—

''(A) each individual conducting a review shall meet the qualifications of paragraph (2);

''(B) compensation provided by the contractor to each such reviewer is consistent with paragraph (3); and

''(C) in the case of a review by a panel described in subsection (c)(3)(B) composed of physicians or other health care professionals (each in this subsection referred to as a 'reviewing professional'), each reviewing professional meets the qualifications described in paragraph (4) and, where a claim is regarding the furnishing of treatment by a physician (allopathic or osteopathic) or the provision of items or services by a physician (allopathic or osteopathic), each reviewing professional shall be a physician (allopathic or osteopathic).

''(2) INDEPENDENCE.—

''(A) IN GENERAL.—Subject to subparagraph (B), each individual conducting a review in a case shall—

''(i) not be a related party (as defined in paragraph (5));

''(ii) not have a material familial, financial, or professional relationship with such a party in the case under review; and

''(iii) not otherwise have a conflict of interest with such a party.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit an individual, solely on the basis of a participation agreement with a fiscal intermediary, carrier, or other contractor, from serving as a reviewing professional if—

''(I) the individual is not involved in the provision of items or services in the case under review;

''(II) the fact of such an agreement is disclosed to the Secretary and the individual entitled to benefits under part A or enrolled under part B, or both, (or authorized representative) and neither party objects; and

''(III) the individual is not an employee of the intermediary, carrier, or contractor and does not provide services exclusively or primarily to or on behalf of such intermediary, carrier, or contractor;

''(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as a reviewer merely on the basis of having such staff privileges if the existence of such privileges is disclosed to the Secretary and such individual (or authorized representative), and neither party objects; or

''(iii) prohibit receipt of compensation by a reviewing professional from a contractor if the compensation is provided consistent with paragraph (3).

For purposes of this paragraph, the term 'participation agreement' means an agreement relating to the provision of health care services by the individual and does not include the provision of services as a reviewer under this subsection.

''(3) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified independent contractor to a reviewer in connection with a review under this section shall not be contingent on the decision rendered by the reviewer.

''(4) LICENSURE AND EXPERTISE.—Each reviewing professional shall be—

''(A) a physician (allopathic or osteopathic) who is appropriately credentialed or licensed in one or more States to deliver health care services and has medical expertise in the field of practice that is appropriate for the items or services at issue; or

''(B) a health care professional who is legally authorized in one or more States (in accordance with State law or the State regulatory mechanism provided by State law) to furnish the health care items or services at issue and has medical expertise in the field of practice that is appropriate for such items or services.

''(5) RELATED PARTY DEFINED.—For purposes of this section, the term 'related party' means, with respect to a case under this title involving a specific individual entitled to benefits under part A or enrolled under part B, or both, any of the following:

''(A) The Secretary, the medicare administrative contractor involved, or any fiduciary, officer, director, or employee of the Department of Health and Human Services, or of such contractor.

''(B) The individual (or authorized representative).

''(C) The health care professional that provides the items or services involved in the case.

''(D) The institution at which the items or services (or treatment) involved in the case are provided.

''(E) The manufacturer of any drug or other item that is included in the items or services involved in the case.

''(F) Any other party determined under any regulations to have a substantial interest in the case involved.''.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall be effective as if included in the enactment of the respective provisions of subtitle C of title V of BIPA, (114 Stat. 2763A–534).

(4) TRANSITION.—In applying section 1869(g) of the Social Security Act (as added by paragraph (2)), any reference to a medicare administrative contractor shall be deemed to include a reference to a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and a carrier under section 1842 of such Act (42 U.S.C. 1395u).

SEC. 834. PREPAYMENT REVIEW.

(a) IN GENERAL.—Section 1874A, as added by section 811(a)(1) and as amended by sections 812(b), 821(b)(1), and 821(c)(1), is further amended by adding at the end the following new subsection:

''(h) CONDUCT OF PREPAYMENT REVIEW.—

''(1) CONDUCT OF RANDOM PREPAYMENT REVIEW.—

''(A) IN GENERAL.—A medicare administrative contractor may conduct random prepayment review only to develop a contractor-wide or program-wide claims payment error

rates or under such additional circumstances as may be provided under regulations, developed in consultation with providers of services and suppliers.

''(B) USE OF STANDARD PROTOCOLS WHEN CONDUCTING PREPAYMENT REVIEWS.—When a medicare administrative contractor conducts a random prepayment review, the contractor may conduct such review only in accordance with a standard protocol for random prepayment audits developed by the Secretary.

''(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing the denial of payments for claims actually reviewed under a random prepayment review.

''(D) RANDOM PREPAYMENT REVIEW.—For purposes of this subsection, the term 'random prepayment review' means a demand for the production of records or documentation absent cause with respect to a claim.

''(2) LIMITATIONS ON NON-RANDOM PREPAYMENT REVIEW.—

''(A) LIMITATIONS ON INITIATION OF NON-RANDOM PREPAYMENT REVIEW.—A medicare administrative contractor may not initiate non-random prepayment review of a provider of services or supplier based on the initial identification by that provider of services or supplier of an improper billing practice unless there is a likelihood of sustained or high level of payment error (as defined in subsection (i)(3)(A)).

''(B) TERMINATION OF NON-RANDOM PREPAYMENT REVIEW.—The Secretary shall issue regulations relating to the termination, including termination dates, of non-random prepayment review. Such regulations may vary such a termination date based upon the differences in the circumstances triggering prepayment review.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

(2) DEADLINE FOR PROMULGATION OF CERTAIN REGULATIONS.—The Secretary shall first issue regulations under section 1874A(h) of the Social Security Act, as added by subsection (a), by not later than 1 year after the date of the enactment of this Act.

(3) APPLICATION OF STANDARD PROTOCOLS FOR RANDOM PREPAYMENT REVIEW.—Section 1874A(h)(1)(B) of the Social Security Act, as added by subsection (a), shall apply to random prepayment reviews conducted on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary shall specify.

(c) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(h) of the Social Security Act, as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

SEC. 835. RECOVERY OF OVERPAYMENTS.

(a) IN GENERAL.—Section 1893 (42 U.S.C. 1395ddd) is amended by adding at the end the following new subsection:

''(f) RECOVERY OF OVERPAYMENTS.—

''(1) USE OF REPAYMENT PLANS.—

''(A) IN GENERAL.—If the repayment, within 30 days by a provider of services or supplier, of an overpayment under this title would constitute a hardship (as defined in subparagraph (B)), subject to subparagraph (C), upon request of the provider of services or supplier the Secretary shall enter into a plan with the provider of services or supplier for the repayment (through offset or otherwise) of such overpayment over a period of at least 6 months but not longer than 3 years (or not longer than 5 years in the case of extreme hardship, as determined by the Secretary). Interest shall accrue on the balance through the period of repayment. Such plan shall meet terms and conditions determined to be appropriate by the Secretary.

''(B) HARDSHIP.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the repayment of an overpayment (or overpayments) within 30 days is deemed to constitute a hardship if—

''(I) in the case of a provider of services that files cost reports, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services for the cost reporting period covered by the most recently submitted cost report; or

''(II) in the case of another provider of services or supplier, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services or supplier for the previous calendar year.

''(ii) RULE OF APPLICATION.—The Secretary shall establish rules for the application of this subparagraph in the case of a provider of services or supplier that was not paid under this title during the previous year or was paid under this title only during a portion of that year.

''(iii) TREATMENT OF PREVIOUS OVERPAYMENTS.—If a provider of services or supplier has entered into a repayment plan under subparagraph (A) with respect to a specific overpayment amount, such payment amount under the repayment plan shall not be taken into account under clause (i) with respect to subsequent overpayment amounts.

''(C) EXCEPTIONS.—Subparagraph (A) shall not apply if—

''(i) the Secretary has reason to suspect that the provider of services or supplier may file for bankruptcy or otherwise cease to do business or discontinue participation in the program under this title; or

''(ii) there is an indication of fraud or abuse committed against the program.

''(D) IMMEDIATE COLLECTION IF VIOLATION OF REPAYMENT PLAN.—If a provider of services or supplier fails to make a payment in accordance with a repayment plan under this paragraph, the Secretary may immediately seek to offset or otherwise recover the total balance outstanding (including applicable interest) under the repayment plan.

''(E) RELATION TO NO FAULT PROVISION.—Nothing in this paragraph shall be construed as affecting the application of section 1870(c) (relating to no adjustment in the cases of certain overpayments).

''(2) LIMITATION ON RECOUPMENT.—

''(A) IN GENERAL.—In the case of a provider of services or supplier that is determined to have received an overpayment under this title and that seeks a reconsideration by a qualified independent contractor on such determination under section 1869(b)(1), the Secretary may not take any action (or authorize any other person, including any medicare contractor, as defined in subparagraph (C)) to recoup the overpayment until the date the decision on the reconsideration has been rendered. If the provisions of section 1869(b)(1) (providing for such a reconsideration by a qualified independent contractor) are not in effect, in applying the previous sentence any reference to such a reconsideration shall be treated as a reference to a redetermination by the fiscal intermediary or carrier involved.

''(B) COLLECTION WITH INTEREST.—Insofar as the determination on such appeal is against the provider of services or supplier, interest on the overpayment shall accrue on and after the date of the original notice of overpayment. Insofar as such determination against the provider of services or supplier is later reversed, the Secretary shall provide for repayment of the amount recouped plus interest at the same rate as would apply under the previous sentence for the period in which the amount was recouped.

''(C) MEDICARE CONTRACTOR DEFINED.—For purposes of this subsection, the term 'medicare contractor' has the meaning given such term in section 1889(g).

''(3) LIMITATION ON USE OF EXTRAPOLATION.—A medicare contractor may not use extrapolation to determine overpayment amounts to be recovered by recoupment, offset, or otherwise unless—

''(A) there is a sustained or high level of payment error (as defined by the Secretary by regulation); or

''(B) documented educational intervention has failed to correct the payment error (as determined by the Secretary).

''(4) PROVISION OF SUPPORTING DOCUMENTATION.—In the case of a provider of services or supplier with respect to which amounts were previously overpaid, a medicare contractor may request the periodic production of records or supporting documentation for a limited sample of submitted claims to ensure that the previous practice is not continuing.

''(5) CONSENT SETTLEMENT REFORMS.—

''(A) IN GENERAL.—The Secretary may use a consent settlement (as defined in subparagraph (D)) to settle a projected overpayment.

''(B) OPPORTUNITY TO SUBMIT ADDITIONAL INFORMATION BEFORE CONSENT SETTLEMENT OFFER.—Before offering a provider of services or supplier a consent settlement, the Secretary shall—

''(i) communicate to the provider of services or supplier—

''(I) that, based on a review of the medical records requested by the Secretary, a preliminary evaluation of those records indicates that there would be an overpayment;

''(II) the nature of the problems identified in such evaluation; and

''(III) the steps that the provider of services or supplier should take to address the problems; and

''(ii) provide for a 45-day period during which the provider of services or supplier may furnish additional information concerning the medical records for the claims that had been reviewed.

''(C) CONSENT SETTLEMENT OFFER.—The Secretary shall review any additional information furnished by the provider of services or supplier under subparagraph (B)(ii). Taking into consideration such information, the Secretary shall determine if there still appears to be an overpayment. If so, the Secretary—

''(i) shall provide notice of such determination to the provider of services or supplier, including an explanation of the reason for such determination; and

''(ii) in order to resolve the overpayment, may offer the provider of services or supplier—

''(I) the opportunity for a statistically valid random sample; or

''(II) a consent settlement.

The opportunity provided under clause (ii)(I) does not waive any appeal rights with respect to the alleged overpayment involved.

''(D) CONSENT SETTLEMENT DEFINED.—For purposes of this paragraph, the term 'consent settlement' means an agreement between the Secretary and a provider of services or supplier whereby both parties agree to settle a projected overpayment based on less than a statistically valid sample of claims and the provider of services or supplier agrees not to appeal the claims involved.

''(6) NOTICE OF OVER-UTILIZATION OF CODES.—The Secretary shall establish, in consultation with organizations representing

the classes of providers of services and suppliers, a process under which the Secretary provides for notice to classes of providers of services and suppliers served by the contractor in cases in which the contractor has identified that particular billing codes may be overutilized by that class of providers of services or suppliers under the programs under this title (or provisions of title XI insofar as they relate to such programs).

''(7) PAYMENT AUDITS.—

''(A) WRITTEN NOTICE FOR POST-PAYMENT AUDITS.—Subject to subparagraph (C), if a medicare contractor decides to conduct a post-payment audit of a provider of services or supplier under this title, the contractor shall provide the provider of services or supplier with written notice (which may be in electronic form) of the intent to conduct such an audit.

''(B) EXPLANATION OF FINDINGS FOR ALL AUDITS.—Subject to subparagraph (C), if a medicare contractor audits a provider of services or supplier under this title, the contractor shall—

''(i) give the provider of services or supplier a full review and explanation of the findings of the audit in a manner that is understandable to the provider of services or supplier and permits the development of an appropriate corrective action plan;

''(ii) inform the provider of services or supplier of the appeal rights under this title as well as consent settlement options (which are at the discretion of the Secretary);

''(iii) give the provider of services or supplier an opportunity to provide additional information to the contractor; and

''(iv) take into account information provided, on a timely basis, by the provider of services or supplier under clause (iii).

''(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply if the provision of notice or findings would compromise pending law enforcement activities, whether civil or criminal, or reveal findings of law enforcement-related audits.

''(8) STANDARD METHODOLOGY FOR PROBE SAMPLING.—The Secretary shall establish a standard methodology for medicare contractors to use in selecting a sample of claims for review in the case of an abnormal billing pattern.''.

(b) EFFECTIVE DATES AND DEADLINES.—

(1) USE OF REPAYMENT PLANS.—Section 1893(f)(1) of the Social Security Act, as added by subsection (a), shall apply to requests for repayment plans made after the date of the enactment of this Act.

(2) LIMITATION ON RECOUPMENT.—Section 1893(f)(2) of the Social Security Act, as added by subsection (a), shall apply to actions taken after the date of the enactment of this Act.

(3) USE OF EXTRAPOLATION.—Section 1893(f)(3) of the Social Security Act, as added by subsection (a), shall apply to statistically valid random samples initiated after the date that is 1 year after the date of the enactment of this Act.

(4) PROVISION OF SUPPORTING DOCUMENTATION.—Section 1893(f)(4) of the Social Security Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

(5) CONSENT SETTLEMENT.—Section 1893(f)(5) of the Social Security Act, as added by subsection (a), shall apply to consent settlements entered into after the date of the enactment of this Act.

(6) NOTICE OF OVERUTILIZATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish the process for notice of overutilization of billing codes under section 1893A(f)(6) of the Social Security Act, as added by subsection (a).

(7) PAYMENT AUDITS.—Section 1893A(f)(7) of the Social Security Act, as added by subsection (a), shall apply to audits initiated after the date of the enactment of this Act.

(8) STANDARD FOR ABNORMAL BILLING PATTERNS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish a standard methodology for selection of sample claims for abnormal billing patterns under section 1893(f)(8) of the Social Security Act, as added by subsection (a).

SEC. 836. PROVIDER ENROLLMENT PROCESS; RIGHT OF APPEAL.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) by adding at the end of the heading the following: ''; ENROLLMENT PROCESSES''; and

(2) by adding at the end the following new subsection:

''(j) ENROLLMENT PROCESS FOR PROVIDERS OF SERVICES AND SUPPLIERS.—

''(1) ENROLLMENT PROCESS.—

''(A) IN GENERAL.—The Secretary shall establish by regulation a process for the enrollment of providers of services and suppliers under this title.

''(B) DEADLINES.—The Secretary shall establish by regulation procedures under which there are deadlines for actions on applications for enrollment (and, if applicable, renewal of enrollment). The Secretary shall monitor the performance of medicare administrative contractors in meeting the deadlines established under this subparagraph.

''(C) CONSULTATION BEFORE CHANGING PROVIDER ENROLLMENT FORMS.—The Secretary shall consult with providers of services and suppliers before making changes in the provider enrollment forms required of such providers and suppliers to be eligible to submit claims for which payment may be made under this title.

''(2) HEARING RIGHTS IN CASES OF DENIAL OR NON-RENEWAL.—A provider of services or supplier whose application to enroll (or, if applicable, to renew enrollment) under this title is denied may have a hearing and judicial review of such denial under the procedures that apply under subsection (h)(1)(A) to a provider of services that is dissatisfied with a determination by the Secretary.''.

(b) EFFECTIVE DATES.—

(1) ENROLLMENT PROCESS.—The Secretary shall provide for the establishment of the enrollment process under section 1866(j)(1) of the Social Security Act, as added by subsection (a)(2), within 6 months after the date of the enactment of this Act.

(2) CONSULTATION.—Section 1866(j)(1)(C) of the Social Security Act, as added by subsection (a)(2), shall apply with respect to changes in provider enrollment forms made on or after January 1, 2003.

(3) HEARING RIGHTS.—Section 1866(j)(2) of the Social Security Act, as added by subsection (a)(2), shall apply to denials occurring on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary specifies.

SEC. 837. PROCESS FOR CORRECTION OF MINOR ERRORS AND OMISSIONS ON CLAIMS WITHOUT PURSUING APPEALS PROCESS.

The Secretary shall develop, in consultation with appropriate medicare contractors (as defined in section 1889(g) of the Social Security Act, as inserted by section 821(a)(1)) and representatives of providers of services and suppliers, a process whereby, in the case of minor errors or omissions (as defined by the Secretary) that are detected in the submission of claims under the programs under title XVIII of such Act, a provider of services or supplier is given an opportunity to correct such an error or omission without the need to initiate an appeal. Such process shall include the ability to resubmit corrected claims.

SEC. 838. PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES; ADVANCE BENEFICIARY NOTICES.

(a) IN GENERAL.—Section 1869 (42 U.S.C. 1395ff(b)), as amended by sections 521 and 522 of BIPA and section 833(d)(2)(B), is further amended by adding at the end the following new subsection:

''(h) PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES.—

''(1) ESTABLISHMENT OF PROCESS.—

''(A) IN GENERAL.—With respect to a medicare administrative contractor that has a contract under section 1874A that provides for making payments under this title with respect to eligible items and services described in subparagraph (C), the Secretary shall establish a prior determination process that meets the requirements of this subsection and that shall be applied by such contractor in the case of eligible requesters.

''(B) ELIGIBLE REQUESTER.—For purposes of this subsection, each of the following shall be an eligible requester:

''(i) A physician, but only with respect to eligible items and services for which the physician may be paid directly.

''(ii) An individual entitled to benefits under this title, but only with respect to an item or service for which the individual receives, from the physician who may be paid directly for the item or service, an advance beneficiary notice under section 1879(a) that payment may not be made (or may no longer be made) for the item or service under this title.

''(C) ELIGIBLE ITEMS AND SERVICES.—For purposes of this subsection and subject to paragraph (2), eligible items and services are items and services which are physicians' services (as defined in paragraph (4)(A) of section 1848(f) for purposes of calculating the sustainable growth rate under such section).

''(2) SECRETARIAL FLEXIBILITY.—The Secretary shall establish by regulation reasonable limits on the categories of eligible items and services for which a prior determination of coverage may be requested under this subsection. In establishing such limits, the Secretary may consider the dollar amount involved with respect to the item or service, administrative costs and burdens, and other relevant factors.

''(3) REQUEST FOR PRIOR DETERMINATION.—

''(A) IN GENERAL.—Subject to paragraph (2), under the process established under this subsection an eligible requester may submit to the contractor a request for a determination, before the furnishing of an eligible item or service involved as to whether the item or service is covered under this title consistent with the applicable requirements of section 1862(a)(1)(A) (relating to medical necessity).

''(B) ACCOMPANYING DOCUMENTATION.—The Secretary may require that the request be accompanied by a description of the item or service, supporting documentation relating to the medical necessity for the item or service, and any other appropriate documentation. In the case of a request submitted by an eligible requester who is described in paragraph (1)(B)(ii), the Secretary may require that the request also be accompanied by a copy of the advance beneficiary notice involved.

''(4) RESPONSE TO REQUEST.—

''(A) IN GENERAL.—Under such process, the contractor shall provide the eligible requester with written notice of a determination as to whether—

''(i) the item or service is so covered;

''(ii) the item or service is not so covered; or

''(iii) the contractor lacks sufficient information to make a coverage determination.

If the contractor makes the determination described in clause (iii), the contractor shall

include in the notice a description of the additional information required to make the coverage determination.

''(B) DEADLINE TO RESPOND.—Such notice shall be provided within the same time period as the time period applicable to the contractor providing notice of initial determinations on a claim for benefits under subsection (a)(2)(A).

''(C) INFORMING BENEFICIARY IN CASE OF PHYSICIAN REQUEST.—In the case of a request in which an eligible requester is not the individual described in paragraph (1)(B)(ii), the process shall provide that the individual to whom the item or service is proposed to be furnished shall be informed of any determination described in clause (ii) (relating to a determination of non-coverage) and the right (referred to in paragraph (6)(B)) to obtain the item or service and have a claim submitted for the item or service.

''(5) EFFECT OF DETERMINATIONS.—

''(A) BINDING NATURE OF POSITIVE DETERMINATION.—If the contractor makes the determination described in paragraph (4)(A)(i), such determination shall be binding on the contractor in the absence of fraud or evidence of misrepresentation of facts presented to the contractor.

''(B) NOTICE AND RIGHT TO REDETERMINATION IN CASE OF A DENIAL.—

''(i) IN GENERAL.—If the contractor makes the determination described in paragraph (4)(A)(ii)—

''(I) the eligible requester has the right to a redetermination by the contractor on the determination that the item or service is not so covered; and

''(II) the contractor shall include in notice under paragraph (4)(A) a brief explanation of the basis for the determination, including on what national or local coverage or noncoverage determination (if any) the determination is based, and the right to such a redetermination.

''(ii) DEADLINE FOR REDETERMINATIONS.—The contractor shall complete and provide notice of such redetermination within the same time period as the time period applicable to the contractor providing notice of redeterminations relating to a claim for benefits under subsection (a)(3)(C)(ii).

''(6) LIMITATION ON FURTHER REVIEW.—

''(A) IN GENERAL.—Contractor determinations described in paragraph (4)(A)(ii) or (4)(A)(iii) (and redeterminations made under paragraph (5)(B)), relating to pre-service claims are not subject to further administrative appeal or judicial review under this section or otherwise.

''(B) DECISION NOT TO SEEK PRIOR DETERMINATION OR NEGATIVE DETERMINATION DOES NOT IMPACT RIGHT TO OBTAIN SERVICES, SEEK REIMBURSEMENT, OR APPEAL RIGHTS.—Nothing in this subsection shall be construed as affecting the right of an individual who—

''(i) decides not to seek a prior determination under this subsection with respect to items or services; or

''(ii) seeks such a determination and has received a determination described in paragraph (4)(A)(ii),

from receiving (and submitting a claim for) such items services and from obtaining administrative or judicial review respecting such claim under the other applicable provisions of this section. Failure to seek a prior determination under this subsection with respect to items and services shall not be taken into account in such administrative or judicial review.

''(C) NO PRIOR DETERMINATION AFTER RECEIPT OF SERVICES.—Once an individual is provided items and services, there shall be no prior determination under this subsection with respect to such items or services.''.

(b) EFFECTIVE DATE; TRANSITION.—

(1) EFFECTIVE DATE.—The Secretary shall establish the prior determination process under the amendment made by subsection (a) in such a manner as to provide for the acceptance of requests for determinations under such process filed not later than 18 months after the date of the enactment of this Act.

(2) TRANSITION.—During the period in which the amendment made by subsection (a) has become effective but contracts are not provided under section 1874A of the Social Security Act with medicare administrative contractors, any reference in section 1869(g) of such Act (as added by such amendment) to such a contractor is deemed a reference to a fiscal intermediary or carrier with an agreement under section 1816, or contract under section 1842, respectively, of such Act.

(3) LIMITATION ON APPLICATION TO SGR.—For purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(D)), the amendment made by subsection (a) shall not be considered to be a change in law or regulation.

(c) PROVISIONS RELATING TO ADVANCE BENEFICIARY NOTICES; REPORT ON PRIOR DETERMINATION PROCESS.—

(1) DATA COLLECTION.—The Secretary shall establish a process for the collection of information on the instances in which an advance beneficiary notice (as defined in paragraph (4)) has been provided and on instances in which a beneficiary indicates on such a notice that the beneficiary does not intend to seek to have the item or service that is the subject of the notice furnished.

(2) OUTREACH AND EDUCATION.—The Secretary shall establish a program of outreach and education for beneficiaries and providers of services and other persons on the appropriate use of advance beneficiary notices and coverage policies under the medicare program.

(3) GAO REPORT REPORT ON USE OF ADVANCE BENEFICIARY NOTICES.—Not later than 18 months after the date on which section 1869(g) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of advance beneficiary notices under title XVIII of such Act. Such report shall include information concerning the providers of services and other persons that have provided such notices and the response of beneficiaries to such notices.

(4) GAO REPORT ON USE OF PRIOR DETERMINATION PROCESS.—Not later than 18 months after the date on which section 1869(g) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of the prior determination process under such section. Such report shall include—

(A) information concerning the types of procedures for which a prior determination has been sought, determinations made under the process, and changes in receipt of services resulting from the application of such process; and

(B) an evaluation of whether the process was useful for physicians (and other suppliers) and beneficiaries, whether it was timely, and whether the amount of information required was burdensome to physicians and beneficiaries.

(5) ADVANCE BENEFICIARY NOTICE DEFINED.—In this subsection, the term ''advance beneficiary notice'' means a written notice provided under section 1879(a) of the Social Security Act (42 U.S.C. 1395pp(a)) to an individual entitled to benefits under part A or B of title XVIII of such Act before items or services are furnished under such part in cases where a provider of services or other person that would furnish the item or service believes that payment will not be made for some or all of such items or services under such title.

Subtitle E—Miscellaneous Provisions

SEC. 841. POLICY DEVELOPMENT REGARDING EVALUATION AND MANAGEMENT (E & M) DOCUMENTATION GUIDELINES.

(a) IN GENERAL.—The Secretary may not implement any new documentation guidelines for evaluation and management physician services under the title XVIII of the Social Security Act on or after the date of the enactment of this Act unless the Secretary—

(1) has developed the guidelines in collaboration with practicing physicians (including both generalists and specialists) and provided for an assessment of the proposed guidelines by the physician community;

(2) has established a plan that contains specific goals, including a schedule, for improving the use of such guidelines;

(3) has conducted appropriate and representative pilot projects under subsection (b) to test modifications to the evaluation and management documentation guidelines;

(4) finds that the objectives described in subsection (c) will be met in the implementation of such guidelines; and

(5) has established, and is implementing, a program to educate physicians on the use of such guidelines and that includes appropriate outreach.

The Secretary shall make changes to the manner in which existing evaluation and management documentation guidelines are implemented to reduce paperwork burdens on physicians.

(b) PILOT PROJECTS TO TEST EVALUATION AND MANAGEMENT DOCUMENTATION GUIDELINES.—

(1) IN GENERAL.—The Secretary shall conduct under this subsection appropriate and representative pilot projects to test new evaluation and management documentation guidelines referred to in subsection (a).

(2) LENGTH AND CONSULTATION.—Each pilot project under this subsection shall—

(A) be voluntary;

(B) be of sufficient length as determined by the Secretary to allow for preparatory physician and medicare contractor education, analysis, and use and assessment of potential evaluation and management guidelines; and

(C) be conducted, in development and throughout the planning and operational stages of the project, in consultation with practicing physicians (including both generalists and specialists).

(3) RANGE OF PILOT PROJECTS.—Of the pilot projects conducted under this subsection—

(A) at least one shall focus on a peer review method by physicians (not employed by a medicare contractor) which evaluates medical record information for claims submitted by physicians identified as statistical outliers relative to definitions published in the Current Procedures Terminology (CPT) code book of the American Medical Association;

(B) at least one shall focus on an alternative method to detailed guidelines based on physician documentation of face to face encounter time with a patient;

(C) at least one shall be conducted for services furnished in a rural area and at least one for services furnished outside such an area; and

(D) at least one shall be conducted in a setting where physicians bill under physicians' services in teaching settings and at least one shall be conducted in a setting other than a teaching setting.

(4) BANNING OF TARGETING OF PILOT PROJECT PARTICIPANTS.—Data collected under this subsection shall not be used as the basis for overpayment demands or post-payment audits. Such limitation applies only to claims

filed as part of the pilot project and lasts only for the duration of the pilot project and only as long as the provider is a participant in the pilot project.

(5) STUDY OF IMPACT.—Each pilot project shall examine the effect of the new evaluation and management documentation guidelines on—

(A) different types of physician practices, including those with fewer than 10 full-time-equivalent employees (including physicians); and

(B) the costs of physician compliance, including education, implementation, auditing, and monitoring.

(6) PERIODIC REPORTS.—The Secretary shall submit to Congress periodic reports on the pilot projects under this subsection.

(c) OBJECTIVES FOR EVALUATION AND MANAGEMENT GUIDELINES.—The objectives for modified evaluation and management documentation guidelines developed by the Secretary shall be to—

(1) identify clinically relevant documentation needed to code accurately and assess coding levels accurately;

(2) decrease the level of non-clinically pertinent and burdensome documentation time and content in the physician's medical record;

(3) increase accuracy by reviewers; and

(4) educate both physicians and reviewers.

(d) STUDY OF SIMPLER, ALTERNATIVE SYSTEMS OF DOCUMENTATION FOR PHYSICIAN CLAIMS.—

(1) STUDY.—The Secretary shall carry out a study of the matters described in paragraph (2).

(2) MATTERS DESCRIBED.—The matters referred to in paragraph (1) are—

(A) the development of a simpler, alternative system of requirements for documentation accompanying claims for evaluation and management physician services for which payment is made under title XVIII of the Social Security Act; and

(B) consideration of systems other than current coding and documentation requirements for payment for such physician services.

(3) CONSULTATION WITH PRACTICING PHYSICIANS.—In designing and carrying out the study under paragraph (1), the Secretary shall consult with practicing physicians, including physicians who are part of group practices and including both generalists and specialists.

(4) APPLICATION OF HIPAA UNIFORM CODING REQUIREMENTS.—In developing an alternative system under paragraph (2), the Secretary shall consider requirements of administrative simplification under part C of title XI of the Social Security Act.

(5) REPORT TO CONGRESS.—(A) Not later than October 1, 2004, the Secretary shall submit to Congress a report on the results of the study conducted under paragraph (1).

(B) The Medicare Payment Advisory Commission shall conduct an analysis of the results of the study included in the report under subparagraph (A) and shall submit a report on such analysis to Congress.

(e) STUDY ON APPROPRIATE CODING OF CERTAIN EXTENDED OFFICE VISITS.—The Secretary shall conduct a study of the appropriateness of coding in cases of extended office visits in which there is no diagnosis made. Not later than October 1, 2004, the Secretary shall submit a report to Congress on such study and shall include recommendations on how to code appropriately for such visits in a manner that takes into account the amount of time the physician spent with the patient.

(f) DEFINITIONS.—In this section—

(1) the term ''rural area'' has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act, 42 U.S.C. 1395ww(d)(2)(D); and

(2) the term ''teaching settings'' are those settings described in section 415.150 of title 42, Code of Federal Regulations.

SEC. 842. IMPROVEMENT IN OVERSIGHT OF TECHNOLOGY AND COVERAGE.

(a) IMPROVED COORDINATION BETWEEN FDA AND CMS ON COVERAGE OF BREAKTHROUGH MEDICAL DEVICES.—

(1) IN GENERAL.—Upon request by an applicant and to the extent feasible (as determined by the Secretary), the Secretary shall, in the case of a class III medical device that is subject to premarket approval under section 515 of the Federal Food, Drug, and Cosmetic Act, ensure the sharing of appropriate information from the review for application for premarket approval conducted by the Food and Drug Administration for coverage decisions under title XVIII of the Social Security Act.

(2) PUBLICATION OF PLAN.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to appropriate Committees of Congress a report that contains the plan for improving such coordination and for shortening the time lag between the premarket approval by the Food and Drug Administration and coding and coverage decisions by the Centers for Medicare & Medicaid Services.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as changing the criteria for coverage of a medical device under title XVIII of the Social Security Act nor premarket approval by the Food and Drug Administration and nothing in this subsection shall be construed to increase premarket approval application requirements under the Federal Food, Drug, and Cosmetic Act.

(b) COUNCIL FOR TECHNOLOGY AND INNOVATION.—Section 1868 (42 U.S.C. 1395ee), as amended by section 823(a), is amended by adding at the end the following new subsection:

''(c) COUNCIL FOR TECHNOLOGY AND INNOVATION.—

''(1) ESTABLISHMENT.—The Secretary shall establish a Council for Technology and Innovation within the Centers for Medicare & Medicaid Services (in this section referred to as 'CMS').

''(2) COMPOSITION.—The Council shall be composed of senior CMS staff and clinicians and shall be chaired by the Executive Coordinator for Technology and Innovation (appointed or designated under paragraph (4)).

''(3) DUTIES.—The Council shall coordinate the activities of coverage, coding, and payment processes under this title with respect to new technologies and procedures, including new drug therapies, and shall coordinate the exchange of information on new technologies between CMS and other entities that make similar decisions.

''(4) EXECUTIVE COORDINATOR FOR TECHNOLOGY AND INNOVATION.—The Secretary shall appoint (or designate) a noncareer appointee (as defined in section 3132(a)(7) of title 5, United States Code) who shall serve as the Executive Coordinator for Technology and Innovation. Such executive coordinator shall report to the Administrator of CMS, shall chair the Council, shall oversee the execution of its duties, and shall serve as a single point of contact for outside groups and entities regarding the coverage, coding, and payment processes under this title.''.

(c) GAO STUDY ON IMPROVEMENTS IN EXTERNAL DATA COLLECTION FOR USE IN THE MEDICARE INPATIENT PAYMENT SYSTEM.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study that analyzes which external data can be collected in a shorter time frame by the Centers for Medicare & Medicaid Services for use in computing payments for inpatient hospital services. The study may include an evaluation of the feasibility and appropriateness of using of quarterly samples or special surveys or any other methods. The study shall include an analysis of whether other executive agencies, such as the Bureau of Labor Statistics in the Department of Commerce, are best suited to collect this information.

(2) REPORT.—By not later than October 1, 2003, the Comptroller General shall submit a report to Congress on the study under paragraph (1).

(d) IOM STUDY ON LOCAL COVERAGE DETERMINATIONS.—

(1) STUDY.—The Secretary shall enter into an arrangement with the Institute of Medicine of the National Academy of Sciences under which the Institute shall conduct a study on local coverage determinations (including the application of local medical review policies) under the medicare program under title XVIII of the Social Security Act. Such study shall examine—

(A) the consistency of the definitions used in such determinations;

(B) the types of evidence on which such determinations are based, including medical and scientific evidence;

(C) the advantages and disadvantages of local coverage decisionmaking, including the flexibility it offers for ensuring timely patient access to new medical technology for which data are still be collected;

(D) the manner in which the local coverage determination process is used to develop data needed for a national coverage determination, including the need for collection of such data within a protocol and informed consent by individuals entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both; and

(E) the advantages and disadvantages of maintaining local medicare contractor advisory committees that can advise on local coverage decisions based on an open, collaborative public process.

(2) REPORT.—Such arrangement shall provide that the Institute shall submit to the Secretary a report on such study by not later than 3 years after the date of the enactment of this Act. The Secretary shall promptly transmit a copy of such report to Congress.

(e) METHODS FOR DETERMINING PAYMENT BASIS FOR NEW LAB TESTS.—Section 1833(h) (42 U.S.C. 1395l(h)) is amended by adding at the end the following:

''(8)(A) The Secretary shall establish by regulation procedures for determining the basis for, and amount of, payment under this subsection for any clinical diagnostic laboratory test with respect to which a new or substantially revised HCPCS code is assigned on or after January 1, 2004 (in this paragraph referred to as 'new tests').

''(B) Determinations under subparagraph (A) shall be made only after the Secretary—

''(i) makes available to the public (through an Internet site and other appropriate mechanisms) a list that includes any such test for which establishment of a payment amount under this subsection is being considered for a year;

''(ii) on the same day such list is made available, causes to have published in the Federal Register notice of a meeting to receive comments and recommendations (and data on which recommendations are based) from the public on the appropriate basis under this subsection for establishing payment amounts for the tests on such list;

''(iii) not less than 30 days after publication of such notice convenes a meeting, that includes representatives of officials of the Centers for Medicare & Medicaid Services involved in determining payment amounts, to

receive such comments and recommendations (and data on which the recommendations are based);

''(iv) taking into account the comments and recommendations (and accompanying data) received at such meeting, develops and makes available to the public (through an Internet site and other appropriate mechanisms) a list of proposed determinations with respect to the appropriate basis for establishing a payment amount under this subsection for each such code, together with an explanation of the reasons for each such determination, the data on which the determinations are based, and a request for public written comments on the proposed determination; and

''(v) taking into account the comments received during the public comment period, develops and makes available to the public (through an Internet site and other appropriate mechanisms) a list of final determinations of the payment amounts for such tests under this subsection, together with the rationale for each such determination, the data on which the determinations are based, and responses to comments and suggestions received from the public.

''(C) Under the procedures established pursuant to subparagraph (A), the Secretary shall—

''(i) set forth the criteria for making determinations under subparagraph (A); and

''(ii) make available to the public the data (other than proprietary data) considered in making such determinations.

''(D) The Secretary may convene such further public meetings to receive public comments on payment amounts for new tests under this subsection as the Secretary deems appropriate.

''(E) For purposes of this paragraph:

''(i) The term 'HCPCS' refers to the Health Care Procedure Coding System.

''(ii) A code shall be considered to be 'substantially revised' if there is a substantive change to the definition of the test or procedure to which the code applies (such as a new analyte or a new methodology for measuring an existing analyte-specific test).''.

SEC. 843. TREATMENT OF HOSPITALS FOR CERTAIN SERVICES UNDER MEDICARE SECONDARY PAYOR (MSP) PROVISIONS.

(a) IN GENERAL.—The Secretary shall not require a hospital (including a critical access hospital) to ask questions (or obtain information) relating to the application of section 1862(b) of the Social Security Act (relating to medicare secondary payor provisions) in the case of reference laboratory services described in subsection (b), if the Secretary does not impose such requirement in the case of such services furnished by an independent laboratory.

(b) REFERENCE LABORATORY SERVICES DESCRIBED.—Reference laboratory services described in this subsection are clinical laboratory diagnostic tests (or the interpretation of such tests, or both) furnished without a face-to-face encounter between the individual entitled to benefits under part A or enrolled under part B, or both, and the hospital involved and in which the hospital submits a claim only for such test or interpretation.

SEC. 844. EMTALA IMPROVEMENTS.

(a) PAYMENT FOR EMTALA-MANDATED SCREENING AND STABILIZATION SERVICES.—

(1) IN GENERAL.—Section 1862 (42 U.S.C. 1395y) is amended by inserting after subsection (c) the following new subsection:

''(d) For purposes of subsection (a)(1)(A), in the case of any item or service that is required to be provided pursuant to section 1867 to an individual who is entitled to benefits under this title, determinations as to whether the item or service is reasonable and necessary shall be made on the basis of the information available to the treating physician or practitioner (including the patient's presenting symptoms or complaint) at the time the item or service was ordered or furnished by the physician or practitioner (and not on the patient's principal diagnosis). When making such determinations with respect to such an item or service, the Secretary shall not consider the frequency with which the item or service was provided to the patient before or after the time of the admission or visit.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items and services furnished on or after January 1, 2003.

(b) NOTIFICATION OF PROVIDERS WHEN EMTALA INVESTIGATION CLOSED.—Section 1867(d) (42 U.S.C. 42 U.S.C. 1395dd(d)) is amended by adding at the end the following new paragraph:

''(4) NOTICE UPON CLOSING AN INVESTIGATION.—The Secretary shall establish a procedure to notify hospitals and physicians when an investigation under this section is closed.''.

(c) PRIOR REVIEW BY PEER REVIEW ORGANIZATIONS IN EMTALA CASES INVOLVING TERMINATION OF PARTICIPATION.—

(1) IN GENERAL.—Section 1867(d)(3) (42 U.S.C. 1395dd(d)(3)) is amended—

(A) in the first sentence, by inserting ''or in terminating a hospital's participation under this title'' after ''in imposing sanctions under paragraph (1)''; and

(B) by adding at the end the following new sentences: ''Except in the case in which a delay would jeopardize the health or safety of individuals, the Secretary shall also request such a review before making a compliance determination as part of the process of terminating a hospital's participation under this title for violations related to the appropriateness of a medical screening examination, stabilizing treatment, or an appropriate transfer as required by this section, and shall provide a period of 5 days for such review. The Secretary shall provide a copy of the organization's report to the hospital or physician consistent with confidentiality requirements imposed on the organization under such part B.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to terminations of participation initiated on or after the date of the enactment of this Act.

SEC. 845. EMERGENCY MEDICAL TREATMENT AND LABOR ACT (EMTALA) TECHNICAL ADVISORY GROUP.

(a) ESTABLISHMENT.—The Secretary shall establish a Technical Advisory Group (in this section referred to as the ''Advisory Group'') to review issues related to the Emergency Medical Treatment and Labor Act (EMTALA) and its implementation. In this section, the term ''EMTALA'' refers to the provisions of section 1867 of the Social Security Act (42 U.S.C. 1395dd).

(b) MEMBERSHIP.—The Advisory Group shall be composed of 19 members, including the Administrator of the Centers for Medicare & Medicaid Services and the Inspector General of the Department of Health and Human Services and of which—

(1) 4 shall be representatives of hospitals, including at least one public hospital, that have experience with the application of EMTALA and at least 2 of which have not been cited for EMTALA violations;

(2) 7 shall be practicing physicians drawn from the fields of emergency medicine, cardiology or cardiothoracic surgery, orthopedic surgery, neurosurgery, obstetrics-gynecology, and psychiatry, with not more than one physician from any particular field;

(3) 2 shall represent patients;

(4) 2 shall be staff involved in EMTALA investigations from different regional offices of the Centers for Medicare & Medicaid Services; and

(5) 1 shall be from a State survey office involved in EMTALA investigations and 1 shall be from a peer review organization, both of whom shall be from areas other than the regions represented under paragraph (4).

In selecting members described in paragraphs (1) through (3), the Secretary shall consider qualified individuals nominated by organizations representing providers and patients.

(c) GENERAL RESPONSIBILITIES.—The Advisory Group—

(1) shall review EMTALA regulations;

(2) may provide advice and recommendations to the Secretary with respect to those regulations and their application to hospitals and physicians;

(3) shall solicit comments and recommendations from hospitals, physicians, and the public regarding the implementation of such regulations; and

(4) may disseminate information on the application of such regulations to hospitals, physicians, and the public.

(d) ADMINISTRATIVE MATTERS.—

(1) CHAIRPERSON.—The members of the Advisory Group shall elect a member to serve as chairperson of the Advisory Group for the life of the Advisory Group.

(2) MEETINGS.—The Advisory Group shall first meet at the direction of the Secretary. The Advisory Group shall then meet twice per year and at such other times as the Advisory Group may provide.

(e) TERMINATION.—The Advisory Group shall terminate 30 months after the date of its first meeting.

(f) WAIVER OF ADMINISTRATIVE LIMITATION.—The Secretary shall establish the Advisory Group notwithstanding any limitation that may apply to the number of advisory committees that may be established (within the Department of Health and Human Services or otherwise).

SEC. 846. AUTHORIZING USE OF ARRANGEMENTS WITH OTHER HOSPICE PROGRAMS TO PROVIDE CORE HOSPICE SERVICES IN CERTAIN CIRCUMSTANCES.

(a) IN GENERAL.—Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended by adding at the end the following new subparagraph:

''(D) In extraordinary, exigent, or other non-routine circumstances, such as unanticipated periods of high patient loads, staffing shortages due to illness or other events, or temporary travel of a patient outside a hospice program's service area, a hospice program may enter into arrangements with another hospice program for the provision by that other program of services described in paragraph (2)(A)(ii)(I). The provisions of paragraph (2)(A)(ii)(II) shall apply with respect to the services provided under such arrangements.''.

(b) CONFORMING PAYMENT PROVISION.—Section 1814(i) (42 U.S.C. 1395f(i)), as amended by section 421(b), is amended by adding at the end the following new paragraph:

''(5) In the case of hospice care provided by a hospice program under arrangements under section 1861(dd)(5)(D) made by another hospice program, the hospice program that made the arrangements shall bill and be paid for the hospice care.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to hospice care provided on or after the date of the enactment of this Act.

SEC. 847. APPLICATION OF OSHA BLOODBORNE PATHOGENS STANDARD TO CERTAIN HOSPITALS.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (R), by striking ''and'' at the end;

(B) in subparagraph (S), by striking the period at the end and inserting ''; and''; and

(C) by inserting after subparagraph (S) the following new subparagraph:

''(T) in the case of hospitals that are not otherwise subject to the Occupational Safety and Health Act of 1970, to comply with the Bloodborne Pathogens standard under section 1910.1030 of title 29 of the Code of Federal Regulations (or as subsequently redesignated).''; and

(2) by adding at the end of subsection (b) the following new paragraph:

''(4)(A) A hospital that fails to comply with the requirement of subsection (a)(1)(T) (relating to the Bloodborne Pathogens standard) is subject to a civil money penalty in an amount described in subparagraph (B), but is not subject to termination of an agreement under this section.

''(B) The amount referred to in subparagraph (A) is an amount that is similar to the amount of civil penalties that may be imposed under section 17 of the Occupational Safety and Health Act of 1970 for a violation of the Bloodborne Pathogens standard referred to in subsection (a)(1)(T) by a hospital that is subject to the provisions of such Act.

''(C) A civil money penalty under this paragraph shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.''.

(b) EFFECTIVE DATE.—The amendments made by this subsection (a) shall apply to hospitals as of July 1, 2003.

SEC. 848. BIPA-RELATED TECHNICAL AMENDMENTS AND CORRECTIONS.

(a) TECHNICAL AMENDMENTS RELATING TO ADVISORY COMMITTEE UNDER BIPA SECTION 522.—(1) Subsection (i) of section 1114 (42 U.S.C. 1314)—

(A) is transferred to section 1862 and added at the end of such section; and

(B) is redesignated as subsection (j).

(2) Section 1862 (42 U.S.C. 1395y) is amended—

(A) in the last sentence of subsection (a), by striking ''established under section 1114(f)''; and

(B) in subsection (j), as so transferred and redesignated—

(i) by striking ''under subsection (f)''; and

(ii) by striking ''section 1862(a)(1)'' and inserting ''subsection (a)(1)''.

(b) TERMINOLOGY CORRECTIONS.—(1) Section 1869(c)(3)(I)(ii) (42 U.S.C. 1395ff(c)(3)(I)(ii)), as amended by section 521 of BIPA, is amended—

(A) in subclause (III), by striking ''policy'' and inserting ''determination''; and

(B) in subclause (IV), by striking ''medical review policies'' and inserting ''coverage determinations''.

(2) Section 1852(a)(2)(C) (42 U.S.C. 1395w–22(a)(2)(C)) is amended by striking ''policy'' and ''POLICY'' and inserting ''determination'' each place it appears and ''DETERMINATION'', respectively.

(c) REFERENCE CORRECTIONS.—Section 1869(f)(4) (42 U.S.C. 1395ff(f)(4)), as added by section 522 of BIPA, is amended—

(1) in subparagraph (A)(iv), by striking ''subclause (I), (II), or (III)'' and inserting ''clause (i), (ii), or (iii)'';

(2) in subparagraph (B), by striking ''clause (i)(IV)'' and ''clause (i)(III)'' and inserting ''subparagraph (A)(iv)'' and ''subparagraph (A)(iii)'', respectively; and

(3) in subparagraph (C), by striking ''clause (i)'', ''subclause (IV)'' and ''subparagraph (A)'' and inserting ''subparagraph (A)'', ''clause (iv)'' and ''paragraph (1)(A)'', respectively each place it appears.

(d) OTHER CORRECTIONS.—Effective as if included in the enactment of section 521(c) of BIPA, section 1154(e) (42 U.S.C. 1320c–3(e)) is amended by striking paragraph (5).

(e) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall be effective as if included in the enactment of BIPA.

SEC. 849. CONFORMING AUTHORITY TO WAIVE A PROGRAM EXCLUSION.

The first sentence of section 1128(c)(3)(B) (42 U.S.C. 1320a–7(c)(3)(B)) is amended to read as follows: ''Subject to subparagraph (G), in the case of an exclusion under subsection (a), the minimum period of exclusion shall be not less than five years, except that, upon the request of the administrator of a Federal health care program (as defined in section 1128B(f)) who determines that the exclusion would impose a hardship on individuals entitled to benefits under part A of title XVIII or enrolled under part B of such title, or both, the Secretary may waive the exclusion under subsection (a)(1), (a)(3), or (a)(4) with respect to that program in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community.''.

SEC. 850. TREATMENT OF CERTAIN DENTAL CLAIMS.

(a) IN GENERAL.—Section 1862 (42 U.S.C. 1395y) is amended by adding after subsection (g) the following new subsection:

''(h)(1) Subject to paragraph (2), a group health plan (as defined in subsection (a)(1)(A)(v)) providing supplemental or secondary coverage to individuals also entitled to services under this title shall not require a medicare claims determination under this title for dental benefits specifically excluded under subsection (a)(12) as a condition of making a claims determination for such benefits under the group health plan.

''(2) A group health plan may require a claims determination under this title in cases involving or appearing to involve inpatient dental hospital services or dental services expressly covered under this title pursuant to actions taken by the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 60 days after the date of the enactment of this Act.

SEC. 851. ANNUAL PUBLICATION OF LIST OF NATIONAL COVERAGE DETERMINATIONS.

The Secretary shall provide, in an appropriate annual publication available to the public, a list of national coverage determinations made under title XVIII of the Social Security Act in the previous year and information on how to get more information with respect to such determinations.

TITLE IX—MEDICAID PROVISIONS

SEC. 901. NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICAID.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Bipartisan Commission on the Future of Medicaid (in this section referred to as the ''Commission'').

(b) DUTIES OF THE COMMISSION.—The Commission shall—

(1) review and analyze the long-term financial condition of the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) identify the factors that are causing, and the consequences of, increases in costs under the medicaid program, including—

(A) the impact of these cost increases upon State budgets, funding for other State programs, and levels of State taxes necessary to fund growing expenditures under the medicaid program;

(B) the financial obligations of the Federal government arising from the Federal matching requirement for expenditures under the medicaid program; and

(C) the size and scope of the current program and how the program has evolved over time;

(3) analyze potential policies that will ensure both the financial integrity of the medicaid program and the provision of appropriate benefits under such program;

(4) make recommendations for establishing incentives and structures to promote enhanced efficiencies and ways of encouraging innovative State policies under the medicaid program;

(5) make recommendations for establishing the appropriate balance between benefits covered, payments to providers, State and Federal contributions and, where appropriate, recipient cost-sharing obligations;

(6) make recommendations on the impact of promoting increased utilization of competitive, private enterprise models to contain program cost growth, through enhanced utilization of private plans, pharmacy benefit managers, and other methods currently being used to contain private sector healthcare costs;

(7) make recommendations on the financing of prescription drug benefits currently covered under medicaid programs, including analysis of the current Federal manufacturer rebate program, its impact upon both private market prices as well as those paid by other government purchasers, recent State efforts to negotiate additional supplemental manufacturer rebates and the ability of pharmacy benefit managers to lower drug costs;

(8) review and analyze such other matters relating to the medicaid program as the Commission deems appropriate; and

(9) analyze the impact of impending demographic changes upon medicaid benefits, including long term care services, and make recommendations for how best to appropriately divide State and Federal responsibilities for funding these benefits.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 17 members, of whom—

(A) four shall be appointed by the President;

(B) six shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, of whom not more than 4 shall be of the same political party;

(C) six shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives, of whom not more than 4 shall be of the same political party; and

(D) one, who shall serve as Chairman of the Commission, appointed jointly by the President, Majority Leader of the Senate, and the Speaker of the House of Representatives.

(2) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed by not later than December 1, 2002.

(3) TERMS OF APPOINTMENT.—The term of any appointment under paragraph (1) to the Commission shall be for the life of the Commission.

(4) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(5) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(6) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy and shall not affect the power of the remaining members to execute the duties of the Commission.

(7) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(8) EXPENSES.—Each member of the Commission shall receive travel expenses and per

diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(d) STAFF AND SUPPORT SERVICES.—

(1) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The Chairman shall appoint an executive director of the Commission.

(B) COMPENSATION.—The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director considers appropriate.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(e) POWERS OF COMMISSION.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE AND OFFICE OF THE CHIEF ACTUARY OF CMS.—

(A) The Director of the Congressional Budget Office or the Chief Actuary of the Centers for Medicare & Medicaid Services, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) REPORT.—Not later than March 1, 2004, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the recommendations, findings, and conclusions of the Commission.

(g) TERMINATION.—The Commission shall terminate 30 days after the date of submission of the report required in subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 to carry out this section.

SEC. 902. DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS.

Section 1923(f)(3) (42 U.S.C. 1396r–4(f)(3)) is amended—

(1) in subparagraph (A), by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—The DSH allotment for any State—

''(i) for fiscal year 2003 is equal to the DSH allotment for the State for fiscal year 2001 under the table in paragraph (2), without regard to paragraph (4), increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average), for fiscal year 2001; and

''(ii) for each succeeding fiscal year is equal to the DSH allotment for the State for the previous fiscal year under this subparagraph increased, subject to subparagraph (B) and paragraph (5), by 1.7 percent or, in the case of fiscal years beginning with the fiscal year specified in subparagraph (C) for that State, the percentage change in the consumer price index for all urban consumers (all items; U.S. city average), for the previous fiscal year.''; and

(2) by adding at the end the following new subparagraph:

''(C) FISCAL YEAR SPECIFIED.—For purposes of subparagraph (A)(ii), the fiscal year specified in this subparagraph for a State is the first fiscal year for which the Secretary estimates that the DSH allotment for that State will equal (or no longer exceed) the DSH allotment for that State under the law as in effect before the date of the enactment of this subparagraph.''.

SEC. 903. MEDICAID PHARMACY ASSISTANCE PROGRAM.

Title XIX is amended—

(1) by redesignating section 1935 as section 1936; and

(2) by inserting after section 1934 the following new section:

''PHARMACY ASSISTANCE PROGRAM

''SEC. 1936. (a) IN GENERAL.—A State plan under this title may provide assistance, consistent with this section, to pharmacies in implementing the new prescription drug benefit under part D of title XVIII.

''(b) USE OF FUNDS.—Such grants may be provided to assist pharmacies—

''(1) in complying with requirements relating to electronic prescribing;

''(2) in prospective drug utilization review; and

''(3) in developing innovative medication therapy management programs using information technology.

''(c) CONDITION FOR RECEIPT.—A pharmacy is not eligible for a grant under this section unless the pharmacy demonstrates how it will operate a program that will work effectively with patients to reduce adverse drug reactions and medical errors. No grant shall be awarded under this section before January 1, 2004.

(d) PRIORITIES.—In awarding grants under this section, a State shall take into account and give priority to the needs of small or rural pharmacies and to pharmacies which service underserved areas.

''(e) FUNDING.—

''(1) TREATMENT AS MEDICAL ASSISTANCE.—Subject to paragraph (2), amounts provided under grants by a State under this section (and the reasonable administrative expenses of a State in carrying out this section, not to exceed 10 percent of the total amount awarded as grants by a State) shall be treated as the provision of medical assistance for purposes of section 1903. In applying section 1903(a)(1) with respect to such assistance, the Federal medical assistance percentage is deemed to be 100 percent.

''(2) LIMITATION AND ALLOTMENT.—

''(A) LIMITATION.—The total amount for which Federal financial participation is available under section 1903(a) for grants and administrative expenses under this section in calendar quarters in any fiscal year is limited to $150,000,000 in each of fiscal years 2004 through 2007.

''(B) ALLOCATION.—The Secretary shall provide a method for the allocation of the amount of funds described in subparagraph (A) in each fiscal year among the States. Such method shall take into account the distribution among States of priority pharmacies specified in subsection (d).

''(3) REQUIREMENT FOR APPLICATION.—The preceding provisions of this section shall only apply to a State if the State has filed with the Secretary an amendment to its State plan that provides for the awarding of grants under this section that is consistent with the requirements of this section.''.

The SPEAKER pro tempore. The gentlewoman from Connecticut (Mrs. JOHNSON), the gentleman from California (Mr. STARK), the gentleman from Louisiana (Mr. TAUZIN), and the gentleman from Michigan (Mr. DINGELL) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in strong support of H.R. 4954 because it provides prescription drugs to all seniors as an entitlement under Medicare.

Mr. Speaker, I am honored to bring this bill to the floor of this great House. Everywhere I go, seniors look at me with worry in their eyes, concern that they will not be able to buy the prescription drugs needed to get well, worry that they will not be able to afford the many prescriptions needed to enable them to enjoy their lives and keep on with their daily activities.

Mr. Speaker, nothing is more important than assuring that our seniors have access to prescription drugs as part of Medicare, within Medicare as

part of that entitlement to health services, because indeed, Medicare without prescription drugs is a mere shadow of the promise of health care security that Medicare has always represented to the seniors of our great country.

Mr. Speaker, I am very proud that this bill provides the deepest discounts on drug prices that any bill has ever brought to this floor. It is a 30 percent discount, compared to every other plan that provides a 10 percent discount.

On top of that 30 percent discount are powerful subsidies, 80 percent subsidies, up to $1,000 in drug costs, and 50% after that. This is powerful help. For those living under 150 percent of poverty income, it will provide 100 percent of their drug cost needs up to $2,000. For over that, States will have freed-up resources to help those that cannot afford their prescriptions.

This is a powerful benefit for our seniors right up through catastrophic coverage, which provides the peace of mind that they so deserve in their senior years.

But that is not all this bill does. It goes on to provide better preventive care for our seniors and to provide those plans that are able to provide disease management, which is the only way that seniors with chronic illness are going to enjoy health in their elder years. Also, it reduces the cost of medication errors, provides safety for our seniors, compensates our providers more realistically, and in general, would strengthen our Medicare program.

I am going to go into the details of the bill later, Mr. Speaker. I will reserve my time for a discussion of this powerful new expansion of Medicare to improve the lives of the seniors of our country.

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

Mr. STARK. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would explain, when one sells out to the insurance industry, we get the Republican bill. They free up any resources that go to the Hartford Insurance Companies.

The truth is that the average senior in this country spends $3,059 on drugs. Under the Republican plan, they will have to spend $1,959 out of pocket to get that $3,000 worth of drugs. Under the bill that we would suggest, they would spend only $691.80.

So Members can see that the Democratic plan, had we been allowed to offer it, is better. It does something for the seniors that the Republican bill does not do: it gives them the wherewithal to afford drugs. It gives them an entitlement that they are entitled to.

The Republican bill is an entitlement for the pharmaceutical industry and the insurance industry. They are the only ones who get any money under the Republican bill. Under our alternative, the seniors are entitled.

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

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means and an expert on health policy and prescription drugs.

Mr. THOMAS. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, at some point, somebody needs to talk about reality. What we have heard from the other side of the aisle is that they want to operate under democracy, that democracy does not operate here.

There is a difference between democracy and chaos. Democracy means majority rules, but it also means rights of the minority. What are some of those rights? The rights are the minority gets to participate if they play by the rules. What are the rules? That under the budget, and they want democracy, under the budget they have the right to offer a plan which costs no more than the amount the budget provides: $350 billion. What they presented was a plan that costs $974 billion.

Guess what? They do not play by the rules; they do not get to offer their substitute. What they want to do is do whatever they want to do without following the rules. That is not democracy.

Secondly, what I heard from the gentleman from Florida while we were arguing the rules was, our bill does not do a pay-back to the providers. What does that mean? They are going to spend $1 trillion, and they do not take any of it to address the fact that our physicians serving seniors have a payment system that is broken. Why is it broken? Because it is not automatic. If it were automatic, it would adjust to the market. Instead, it is an arbitrary, fixed price. But they do not even want to fix that in their bill.

Now, we have also heard several times, the latest argument was that we are in the pocket of somebody; that Republicans can only write a bill if they are in the pocket of somebody. Oftentimes we have heard that we are in the pocket of the pharmaceutical manufacturers.

Mr. Speaker, let me explain what is in this bill. The Democrats put into effect a payment called ''best price.'' Whenever someone says, we are going to give you the best price, you had better beware. What is ''best price''? It is an arbitrary, bureaucratic, green eye shade determination of a floor of what we are going to pay.

When the Democrats ran this place and when the Democrats wrote legislation, they put in best price. Do Members know what we suggest? In this bill, we get rid of best price. What in the world would we pay if we got rid of best price? Guess what.

Do Members know that in that pocket of the pharmaceutical manufacturers that we are in there is going to be a whole lot more room for us, because the pharmaceutical manufacturers get taken out of their bottom line $18 billion in this bill. They are denied $18 billion by going from best price.

They have to help us solve this problem by the tune of $18 billion, because instead of best price, guess what we ask them to do? We ask them to compete. We have all kinds of laws to produce pure drugs. Who will give it to us at the cheapest price? A modest competition produces a savings of $18 billion applied to the benefits to seniors paid for by pharmaceutical manufacturers.

They have nothing in their bill. They have rhetoric. They have hot air. We have $18 billion paid out of the pockets of the pharmaceutical manufacturers to help seniors.

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

Mr. Speaker, I would remind the distinguished chair of the Committee on Ways and Means that I suggested that the Republicans were in the pocket of the insurance companies, and I was about to say that when they go to bed with the pharmaceutical industry, they get a bill like this.

Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, I say to the gentleman from California (Mr. THOMAS), democracy means give the minority a substitute bill, period. That is what it means. Under the rules? Look, we go by the American rules, not the rules of the gentleman from California (Mr. THOMAS).

It is a disgrace that they do not give us the chance for a substitute. They did it on the trade bill, a motion to recommit. Now they are doing it on this.

Mr. Speaker, we will never yield to the gentleman's demeaning democracy. The gentlewoman from Connecticut (Mrs. JOHNSON) talks about ''this great House.'' I want to talk substance, that she is demeaning this great House. She is changing this from the people's House to something else.

Mr. Speaker, this bill is a shell. It is worse than empty in the sense that it is filled with deceptions. Ten words: no set premiums, no assured benefits, and use private insurance.

The gentlewoman from Connecticut (Mrs. JOHNSON) said, let us not get into the details. I can understand why. She likes to say that 44 percent of women will be covered without cost. What she does not say is that those women are especially vulnerable to paying more than $2,000 bucks; and after that, they fall into a deep hole of noncoverage.

This bill is not part of Medicare like hospital and physician bills, and we say, why not? They just do not like Medicare.

□ 2300

Now, the gentleman from California (Mr. THOMAS) does not like us to talk about Medicare+Choice. I can understand. That has not worked. Under Medicare+Choice if there is not enough money then you have to come to Congress. Under your bill if there is not

enough money, I would call this no prescription choice, except you can run to the Secretary to get some more money.

This bill, as I said, is worse than an empty shell; and what makes it worse is you are playing the shell game with democracy.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Speaker, I rise in strong support of H.R. 4954, the Medicare Modernization and Prescription Drug Act.

When it comes to Medicare, Congress must consistently balance accessibility of services from qualified providers, cost and financial stability of the Medicare program. This legislation does just that.

H.R. 4954 provides a long-overdue prescription drug benefit that is voluntary and available to all Medicare beneficiaries in a fiscally responsible way. Our House-passed budget provides for $350 billion for a Medicare prescription drug benefit and modernizations to the program.

According to CBO estimates our proposed drug benefit is estimated to cost $310 billion over 10 years and also achieves a 30 percent savings on drug costs. It is projected that in 2004 the median out-of-pocket drug costs for Medicare beneficiaries will be $1,453. Under our proposal, $827 of that, more than 50 percent, of the beneficiary's drug expenditures will be covered.

The Medicare Modernization and Prescription Drug Act also provides a number of reasonable and necessary adjustments to provider payments. Most importantly, this legislation includes $21.3 billion for physicians to reverse the negative and irrational payment updates they received this year and are expected to receive next year.

The physician payment provision helps us to ensure that physicians will continue to participate in the Medicare program and provide quality health service to beneficiaries. If we do not ensure that providers are adequately reimbursed, all the new benefits that we have passed and will pass for Medicare beneficiaries will be for naught because providers will close their doors to beneficiaries.

My colleagues on the other side of the aisle argue that this legislation is an empty promise to seniors. I cannot disagree more. This package provides a prescription drug benefit that covers more than 95 percent of Medicare beneficiaries and helps to improve access to quality health care services.

Let us give our seniors access to quality health services that they deserve. Let us pass a meaningful prescription drug benefit that is voluntary and available to all Medicare beneficiaries. Let us make sure that our seniors have a choice in Medicare. Let us not play politics with America's seniors.

I urge my colleagues to support the Medicare Modernization and Prescription Drug Act.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from California (Mr. STARK) for yielding me time.

Mr. Speaker, this bill is fundamentally flawed. It does not use the Medicare model for providing benefits; and with Medicare, when we provide benefits for physicians or hospitals, our seniors are guaranteed those benefits. In this bill for prescription drugs, they are guaranteed nothing.

It reminds me of what we told our seniors with HMOs. Join HMOs and you will get prescription drug coverage. What happened as soon as they joined? The deductible, the co-pays went up, and the amount of coverage went down.

There is no protection in this bill on premiums like under Medicare. In Medicare, our seniors know that their Part B premium is tied to 25 percent of the cost. They know how much it will be. There is no protection in this bill as to what the premium will be set at or how much it will increase. No protections to our seniors.

In Medicare, we know that there will be a reimbursement system in our communities. You can always rely on Medicare. The underlying bill relies on private insurance. Mr. Speaker, there is no protection in this bill for those private insurance companies leaving our community.

Look what happened with the HMOs. They enrolled seniors. They brought them in, and then they left town.

Ask the people in Maryland. In 1996, we had eight HMOs writing seniors business, private insurance. Today, we have one with a capped enrollment. The private insurance companies will be there as long as they can make money; and as soon as they cannot make money, they will be gone.

There is no protection in this bill to provide prescription drugs to our seniors. It is fundamentally flawed, and we should correct it. We will have an opportunity to do it with the motion to recommit.

I urge my colleagues, if we are serious about providing prescription drug coverage for seniors, let us use the model that has worked. Let us use the Medicare model. Let us not use private insurance, solely private insurance. It has not worked in the past, and it will not work under this bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. MCCRERY), an esteemed member of the Subcommittee on Health of the Committee on Ways and Means.

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

Mr. MCCRERY. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, to those who say the benefit in this bill is not rich enough, Mr. Speaker, I would ask them to remember that Medicare spending, despite the bipartisan Balanced Budget Act of 1997, is still growing at an unsustainable rate. As a share of our gross domestic product, Medicare has grown from 1.3 percent in 1980 to more than 2.2 percent today and will hit 5 percent by the year 2030. By 2075, Medicare will be just under 10 percent of our gross domestic product.

10 percent of GDP may not seem like much until you consider that over the last four decades Federal tax revenues have averaged between 18 and 19 percent of GDP. In other words, Mr. Speaker, under current projections, unless the Federal tax burden is raised to new and potentially economically destructive levels, Medicare, together with Social Security and Medicaid, will quickly crowd out spending on other important initiatives, including defense, homeland security, education, transportation and others.

These long-term trends will only be exacerbated by the addition of a prescription drug benefit which is not coupled with meaningful structural reform of the Medicare program.

I am pleased, therefore, that the legislation before us this evening includes the first steps towards the long-term structural reforms needed to bend the growth curve. Just as it would be irresponsible for the Congress, Mr. Speaker, not to try to help seniors with the cost of prescription drugs, it would be irresponsible to add a prescription drug benefit to Medicare without tackling these long-term trends in the growth of Medicare spending.

I hope, Mr. Speaker, that next year we will come back here on this floor and continue the kind of reforms that we started in this bill tonight so that those who are under 65 in our society will not be burdened with a tax that just cannot be sustained and continue the kind of society, the kind of economy that we enjoy in this country.

Mr. Speaker, I urge my colleagues to adopt this bill along with the minor reforms that we have this evening.

Mr. STARK. Mr. Speaker, pending recognizing the gentleman from Washington (Mr. MCDERMOTT) for 2 minutes, I would just like to remind the Members that the gentleman from Louisiana (Mr. MCCRERY) recalls that it was the gentlewoman from Connecticut (Mrs. JOHNSON) who voted in committee not to increase money for nursing homes. She voted against eliminating co-pays for home health care. She voted against limiting the premiums to seniors, and she voted against giving seniors a choice of going to any pharmacy. So much for her concern for the seniors.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I assume my colleague was speaking on his own time.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentlewoman is correct. The gentleman was speaking on his time.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, this is a bad bill because there is no assured

benefits and there is no set premiums because the Republicans are privatizing Medicare. They are giving this whole benefit to the private insurance companies.

Now you have to remember that the chairman of the committee chaired the Medicare Commission and spent an entire year trying to get a voucher system for senior citizens in Medicare. This is his second try. Buried in this bill is the creation of a new private benefit management company or management authority that will handle the HMOs and will handle the private drug plans.

Now you think I am making this up, but if you take the bill, and I will bet you there is not a person on this floor that has read page 157, line 16, which prevents the Secretary of HHS from ''interfering in any way with the negotiations between the private drug plans and the Medicare+Choice organizations and drug manufacturers.''

Now what this is saying is that the Secretary of Health and Human Services, whoever that may be, has no ability to stand up for the people of this country, the senior citizens, the 40 million people that count on this program, and negotiate for them. She has to stand back and let the private drug programs and the pharmaceutical companies negotiate.

Now, we all saw what happened with Medicare+Choice. Hundreds of thousands of people were lured into HMOs and then were dumped out in the street; 500,000 in my State; and I do not know how many across this country. And you say, well, we did not learn anything from that. We know the private industry will take care of them. So let us give them the drug benefit. You are going to get the same thing, and it is rotten.

Everyone should vote ''no'' and vote ''yes'' on the Democratic alternative.

Mr. STARK. Mr. Speaker, I yield myself 15 seconds to remind the Members that both the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Florida (Mr. SHAW) voted against increasing payments to hospitals, voting against filling the Republican gap in the drug coverage, and voted against requiring drug companies to offer real discounts. So much that they care for the senior citizens of this country.

Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KLECZKA).

Mr. KLECZKA. Mr. Speaker, we are told by my Republican colleagues that this is a powerful benefit, that this is an historic opportunity. Well, nothing could be further from the truth. For you see, Mr. Speaker, 2 years ago to the day an identical bill passed this House of Representatives. And why did it pass 2 years ago at this time and why is this bill on the floor here today? Because 4 months from now we will have the November congressional elections.

And you see, the American public wants a drug benefit. And they do not want to give one, but they keep bringing up this fig leaf 4 months, every 2 years before the Congressional elections.

But what is their bill all about? This is not a Medicare benefit like hospitals and physicians. This is a subsidy to insurance companies. We were told 2 years ago when this same bill was up that no insurance companies are going to sell these policies. For everyone who buys a policy will have a claim against the policy, and it is going to be identical to the failed experiment that the gentleman from California (Mr. THOMAS) called Medicare Choice.

Two million people have been canceled by insurance companies from that plan, and the same is going to happen here. But for a senior with drug costs of $3,800 a year, the Republican plan will give them almost nothing. After they are charged a premium, a deductible, they pay $150 for the first $1,000 of costs. They pay one-half or $500 for the next thousand. Then they have no coverage at all for any and all drug costs from $2,000 to $3,800. So for $3,800 in drug costs per year the senior gets $3,100 of extra payments out of the pocket. The benefit is $680.

Is that what they want to give their mothers and their aging fathers? They should be ashamed of themselves.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. NUSSLE).

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

Mr. NUSSLE. Mr. Speaker, I rise in support of H.R. 4954, the Medicare Modernization Prescription Drug Act. It is a good bill. It fits within a budget. It fits within a budget plan. We have got a budget. We have got a plan. It meets the needs of seniors. It meets the needs of health care providers. It meets the needs for the future.

In 1965, Medicare should have included a prescription drug benefit.

□ 2315

For many years after 1965, Democrats had the opportunity to propose legislation for a prescription drug benefit. In fact as early as 1993, they controlled the House, the other body and the House down the road here, and did not do a thing for seniors on prescription drugs; and now tonight they rush in, claim that we will not let them have the substitute when in fact their substitute costs almost a trillion dollars; and that is the reason they cannot have it, because it does not fit within a budget, and it does not fit within a plan.

Mr. Speaker, just 3 hours ago they were screaming that we had to raise the debt ceiling because we were spending too much. Tonight they are claiming we are not spending enough. Vote for this bill.

I rise in support of H.R. 4954, the Medicare Modernization and Prescription Drug act of 2002. I'd like to congratulate the Committees on Ways and Means and Energy and Commerce for producing a bill that provides a much-needed Medicare prescription drug benefit within a fiscally responsible framework.

No senior should be forced to choose between the basic necessities of life and purchasing prescription drugs. This bill provides prescription drug coverage that is affordable, accessible, and completely voluntary.

Because the Medicare program has not been significantly modernized since its inception in 1965 to include a prescription drug benefit, it is not meeting the needs of Iowa seniors.

While the drug benefit is indeed important, Iowans recognize that the critical inequities in today's current Medicare program must also be addressed. While Iowa boasts the 8th highest quality of heathcare in the Nation, it is 50th in Medicare reimbursement.

Actions that affect Medicare affect Iowa's entire health care system. If health care providers leave rural areas, who will write prescriptions under the new drug benefit? Who will provide the care that cannot be provided by drugs alone? If local hospitals close, where will we take our children for emergency care?

Many of these problems have compounded since 1965, but rural health care, particularly in Iowa, is on the verge of a crisis. This bill offers significant progress toward bridging the gap between urban providers and those in rural States such as Iowa.

As a member of the House Committee on Ways and Means, I successfully amended this important legislation with Medicare's antiquated reimbursement policies in the current system in mind. My amendment is directed at the hospitals that need help the most, especially those in Iowa. It has been estimated that my amendment will provide $123 million over the years in much-needed relief for Iowa hospitals such as Covenant in Waterloo, Mercy in Dubuque, and Regional Medical Center in my hometown of Manchester.

I am also pleased that this legislation includes an important provision recognizing the unique cost of physician work in rural areas. This provision would give the Secretary of Health and Human Services discretion to raise the minimum level of physician wages providing an increase of roughly $7 million to physicians in Iowa.

After years of working to correct these inequities, I'm glad to see that the House of Representatives is following my lead in addressing these disparities in the current system. While this legislation is an important step forward, I will not stop working on this important issue.

Today we are adding an unquestionably important prescription drug benefit to Medicare as well as beginning to reverse the years of unjust reimbursement formulas that have burdened Iowa's hospitals and physicians. We have listened to both seniors and health care professionals.

The budgetary parameters for this bill were established in the Concurrent Resolution on the budget for Fiscal Year 2003 (H. Con. Res 353), the budget resolution that the House passed in March and then deemed enforceable in the House last month.

That budget made modernizing Medicare with, among other things, a prescription drug benefit and reforming Medicare among the highest priorities for the Congress—along with fighting the war on terrorism and encouraging economic recovery.

The budget provides $5 billion in fiscal year 2003 and $350 billion over 10 years to strengthen Medicare and include a prescription drug benefit. That money was specifically fenced off from the rest of a budget in a reserve fund.

This bill meets the requirements in the budget resolution and therefore I am releasing amounts in the reserve fund provided in the budget resolution to enable the House to consider the bill.

Some have said that $350 billion is inadequate. The bottom line is that we made the maximum amount available for Medicare, given the state of the economy and the costs we face in the war against terrorism.

Indeed, the bill provides almost twice the resources for Medicare reform as the President proposed in his budget for fiscal year 2003. Unfortunately, critics of the bill failed to offer an alternative when the budget resolution was considered on the floor. And the other body has yet to even consider a budget resolution, despite the fact that they are required by law to do so by April 15.

As modified by the rule, this bill is ''on budget'' and within the reserve fund level of $350 billion over 10 years. About $310 billion of the total is for the drug benefit, around $40 billion of additional assistance is provided to struggling medicare providers, and the rest is for various miscellaneous but important provisions such as regulatory reform.

The modernization provisions in the bill include a Medicare+Choice competition program, regulatory reform, and the President's prescription drug discount card.

I believe that modernization efforts like the Medicare Plus Choice competition program are necessary to help address Medicare's long-term financial liabilities. I would encourage future conferees on this bill to make further reforms to address Medicare's financial liabilities, should the other body act on this legislation and allow us to have a conference.

In conclusion, this bill fulfills our commitment to enact a prescription drug benefit within Medicare that is affordable, and that is part of the overall effort to reform Medicare to make the program sustainable over the long term.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. TANNER), who realizes that the National Community Pharmacists Association states that the Republican bill penalizes beneficiaries desiring to continue their trusted relationship with their pharmacists and access to valuable pharmacist services.

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

Mr. TANNER. Mr. Speaker, I thank the gentleman from California (Mr. STARK) for yielding me this time.

Mr. Speaker, my problem with the bill that is under consideration tonight is in the theory behind it. My family has been in the insurance business in Tennessee for over a hundred years, and the reason we have Medicare in this country is because in the private world of insurance, there is no way that a senior citizen 80 years old with heart trouble and diabetes can buy health insurance. That is why Medicare came into being. They still could not buy it if we did not have Medicare. So what we are trying to do here is put a square peg in a round hole in that this bill tries to make an insurable product out of a benefit for which there is no risk pool for the concept, the theory of insurance to work.

Insurance does not work when every policyholder is also making a claim against their policy. By the very inception of this kind of protocol, every policyholder will be making a claim. It is simply not an insurable product. What we are going to wind up with, I am afraid, and we will be back here in a year if this passes and passes the Senate, is we are going to have a patchwork across the country of differing coverages, differing plans, differing copays, differing premiums, differing in every respect. Nobody will know for sure what they have got.

What is one to do? One will figure what one's drug payment is a year; and if it is less than what they would get if there is a plan offered and knowing they cannot go to their neighborhood pharmacy even if the pharmacy is willing to abide by the plan, if their drug benefit is more than what they are spending, they will take it. If it is less than that, they will not. So everybody that the insurance company signed up will be making a claim and will be getting more than their premium copayments. The whole structure of this thing is flawed, and that is why I cannot support it.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington (Ms. DUNN), a member of the Committee on Ways and Means.

Ms. DUNN. Mr. Speaker, one of the most important values to all seniors is that they be financially independent in their retirement, and that means they do not want to be a burden on their children and that means access to affordable health care. The high cost of prescription drugs and the lack of prescription drug coverage has caused many seniors, and especially senior women, to be very worried about their independence.

I was sorry to have witnessed early this evening my women colleagues in the opposition claiming that older women will not be helped by this bill because I have seen how older women are being forced to make tough decisions about whether to spend their limited dollars on necessary prescription drugs or other of life's necessities. Our mothers and grandmothers are outliving our fathers and our grandfathers. They are living on fewer dollars for more years, and they are far more likely to develop chronic medical conditions.

This bill does benefit women. This bill helps seniors on fixed incomes and those with high drug costs. A woman living on an income of less than $15,000 a year will receive total assistance from this Federal Government Medicare program for prescription drugs. While all seniors will benefit because any senior can opt to buy this coverage, nearly 17 million or 44 percent of Medicare beneficiaries will qualify for additional assistance when this bill is fully implemented.

Perhaps the most important part of this bill, Mr. Speaker, is the fact that no senior under this coverage will ever have to pay more than $3,700 a year for their total of drugs. Improving Medicare, though, is not only about providing drug benefits. It is about giving seniors access to doctors and hospitals and Medicare HMOs and other services they need. So we put some additional benefits in this bill to ensure that doctors will continue to serve seniors. We increase the reimbursements those doctors receive. We also help rural, urban, and teaching hospitals care for seniors and low-income individuals.

For Medicare HMOs this bill requires Medicare to account for military retirees in the future, which means higher Medicare+Choice reimbursements in every county in this country with military facilities.

I urge my colleagues to support this fine bill.

Mr. STARK. Mr. Speaker, I yield 15 seconds to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Speaker, I thank the gentleman from California (Mr. STARK) for yielding me this time.

I want to point out something here that continues to be talked about in the low-income seniors being given total prescription drugs. The problem is in the bill that we are talking about, it does not waive the asset test that beneficiaries would have to meet in order to get their benefits. So in fact the number of people who would qualify for the low-income benefit would actually be much less.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. HOLDEN).

Mr. HOLDEN. Mr. Speaker, I rise in opposition to the bill. Those of us from rural districts and those of us from central and northeastern Pennsylvania know that the idea that we are going to turn over the administration of a prescription drug program for our senior citizens to the insurance industry, to the HMOs, and have it be fair and universal is ridiculous. In fact it is a joke.

Number one, the insurance industry wants no part of it. As the gentleman from Tennessee (Mr. TANNER) mentioned before, why would they when every policyholder is also going to file a claim? They are going to lose their shirt in this proposal. Medicare+Choice has failed across the country, but it has failed miserably in rural America. My constituents had to look at commercials coming out of the Philadelphia media market, Cadillac plan for prescription drug coverage and low premiums, and they were not able to participate. The reason they were not able to participate is because they had lower participation and lower reimbursement from Medicare.

As a result of it, we did not have universal coverage as Medicare+Choice.

We cannot make the same mistake. We need to have a divine benefit. We need to have a divine premium, and we need to have universal coverage for all our senior citizens.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 20 seconds. I want to make a correction of the record.

Over and over again my colleagues say we do not have a defined benefit. We have a very clearly defined benefit. Do we have a defined premium? Of course not. The part B premium is not defined. That is a percentage of costs and it varies every year. Federal health employee benefit plans do not define the premium in law. It varies every year.

In our plan we do not want to set the premium in law because if we can provide a more efficient plan, we want to be able to pass on that savings through a lower premium to seniors. We are proud of our core benefit.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the chairwoman for yielding me the time. I am glad that she was able to correct the record on a few misstatements that have been made this evening.

I would like to correct the record again. My friend from Pennsylvania just stood up and talked about Medicare+Choice and how this is the same. It is not. In fact, in this bill, we are helping to make Medicare+Choice work. Just because we have choked off the funding to Medicare+Choice so it does not work for our seniors, including a bunch of mine, who were not getting the right reimbursement has nothing to do with this plan. This is an entirely different plan, but it does help on Medicare+Choice, and I hope people are happy to hear that who are so concerned about it.

This is a great plan. This is exactly what our seniors need. One would never design the Medicare program today without adding prescription drugs. The other side wants to add $1 trillion of prescription drugs. After just voting not to raise the debt limit they want to add another $1 trillion.

We are doing this within $350 billion, which is responsible, which is, unlike what my friend from Wisconsin said earlier, a lot different than the bill 2 years ago. It is more money, yes, because we believe it is necessary to be able to provide seniors with the coverage they need.

CBO has scored this. CBO has said that this will lower prescription drug prices more than any other bill that has been introduced in this House that has been scored by CBO. Our bill lowers drug prices more. There is a discount for all seniors. In fact, for the average senior there will be a 44 percent reduction in the drug costs. Average drug costs $2,150, they only pay $1,200 out of pocket. That is a savings of 44 percent.

There is another 44 percent number we ought to hear about tonight and that is for low-income seniors, which is 44 percent of seniors. They will pay no deductible. They will pay no percentage, 20 percent or 50 percent. They only have a nominal copay. They get this for free. That is 44 percent of the seniors. The very people the other side has said tonight repeatedly they are worried about, that they are not going to get a benefit, they get a total benefit.

This is precisely the kind of plan that the Republican Party has been talking about for the last couple of years, but it is even better than the one from 2 years ago. It meets the principles. It lowers the cost of prescription drugs and does that now. It guarantees all seniors drug coverage. It gives seniors more choices including Medicare+Choice.

It is a good plan. It is affordable. It is voluntary. It preserves the right to choose. I strongly urge its adoption.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Dakota (Mr. POMEROY), pending which I would point out to my distinguished colleagues that the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Florida (Mr. SHAW) both voted against protecting low-income seniors from higher copayments and the gaping gap in the Republican plan. So much they care for the senior citizens.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me the time.

At the heart of what this debate is all about is a clear choice, whether we should provide a prescription drug benefit for seniors through the Medicare program or whether we should send money to insurance companies to induce them to provide a coverage that at the present time they have said they do not want to write, prescription drug coverage for seniors.

I used to be an insurance commissioner. For 8 years it was my responsibility to protect the seniors from insurance companies in the State of North Dakota. There has not been a Member of this body that spent more time talking to seniors about insurance than me, and directions that I have received from seniors on this issue are absolutely consistent and absolutely clear. They want Medicare coverage for prescription drugs.

Not a single senior has said to me, please, I want to go buy another insurance policy; please send me more agents, I want to hear what they have to say; please give me that fine print, it is fascinating and I want to read some more of it; and by the way, I want to deal with insurance companies because I so enjoy wondering whether they are going to pay that claim or whether they will not; I so enjoy wondering whether they are going to be there when I need them or whether they will be gone and out of business.

No senior has said that. It is ludicrous on its face. They know Medicare. Medicare covers their hospital bills. Medicare covers their doctor bills. Medicare has been the program that has been so vital to preserving and promoting the health of seniors in this country for the last nearly 4 decades. We do not have to invent some new hocus pocus private sector, gosh-I-hope-it-works kind of deal. We have got Medicare and the seniors know it and they like it; and they would have preferred that plan tonight, which is why we were not allowed our substitute to have a Medicare delivery of a prescription drug benefit as opposed to the alternative the majority has advanced.

Nobody wants prescription drug coverage for seniors more than the minority in this body, and they will be opposing this version because it simply will not work. It does not get the job done. Vote it ''no.''

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 10 seconds.

Under Medicare we have part A. We have part B. We have part C, and this will be part D under Medicare, providing prescription drugs to seniors to any plan sponsor, and plan sponsors may be a group of any sort, preferably companies skilled and experienced in managing drug benefits.

Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CAMP).

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

Mr. CAMP. Mr. Speaker, today we have the opportunity to help seniors improve their quality of life by providing a prescription drug benefit in Medicare. On a daily basis it is reported that the cost of cutting-edge, life-saving medicines have skyrocketed, forcing those on fixed incomes to make difficult choices.

One constituent in my district had drug costs of over $15,000 a year for him and his wife, and their Social Security check was $21,000 a year, and there are countless other heartbreaking stories just like that one.

□ 2330

These seniors have worked hard all their lives to provide for their families, but now they can barely make ends meet.

We can all agree if Medicare were created today it would contain a prescription drug component. In Michigan alone, this bill would benefit over 1.2 million seniors. This proposal provides affordable coverage for every senior without gimmicks, without sunsets, without pie-in-the-sky proposals that cost over $1 trillion.

Regrettably, some have sought to politicize this issue and hold other seniors and the disabled hostage to a cruel game of brinksmanship. We must strengthen and modernize Medicare. Vote for this bill.

Mr. STARK. Mr. Speaker, I yield myself 15 seconds to point out that every Republican, including the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Florida (Mr. SHAW), voted against assuring seniors that they could get the drugs that

their doctor prescribes, because there is nothing in the Republican bill that guaranties the drugs that a doctor might prescribe.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, my colleagues on the Republican side have never truly embraced Medicare. They opposed it in 1965, they have talked about letting it die on the vine, and they have described it as a Soviet-style program. In fact, what we have in this bill from my Republican colleagues and friends is a bill that moves us much closer to privatizing Medicare all together.

To privatize Medicare is to ignore the lessons of the Enron scandal and the pension abuse that occurred as a result. To privatize Medicare is to turn back the clock to those bad old days before 1965 when the health care for our seniors was not guaranteed and left to the private sector.

Under this Republican plan, a senior who is paying $250 a month in prescription drugs, and that is a lot of our seniors, would lose coverage, total coverage under this plan after August. So that, come September, come October, come November, come December, that senior would have to, out of his or her own pocket, pay for the remaining cost of all those drugs.

Under this plan, a senior who has $5,000 in annual prescription drug costs, and there are a lot of them who do, would have to pay $4,200 out-of-pocket out of that $5,000 cost. Compare that to the Democratic plan, where the total cost to that senior for the $5,000 would be $1,380, a savings of $2,800 between the Republican plan and the Democratic plan.

Those are the facts, and that is the difference. But we do not have a chance to put our Democratic plan for a vote here. Mr. Speaker, today, today as we speak, seniors are having to make a choice, do I buy my groceries, or do I buy my prescription drugs? Do I pay my rent, or do I buy the medication I need? We should not have them make that choice.

Give seniors what they want. They want an affordable and guaranteed benefit. The Democratic plan does that; the Republican plan does not. Let us defeat this plan.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume to note that it is curious the gentleman from California keeps citing the votes that we cast against his unfunded amendments, the unfunded amendments from the other side, when he is about to cast a vote against funding 43 percent of the seniors in California with everything, drug costs, copayments, deductibles, premiums, the whole business, 43 percent, and saving California $5 billion under Medicaid with which they can then expand drug benefits for many other folks in their State. Too bad.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. ENGLISH).

Mr. ENGLISH. Mr. Speaker, as a member of the Subcommittee on Health of the Committee on Ways and Means, I particularly want to pay tribute to the gentlewoman from Connecticut (Mrs. JOHNSON), who has been on the receiving end of many barbs tonight. The fact is that no one has fought harder to bring a prescription drug benefit to the Medicare program; and if we are successful in that, she, perhaps more than any other Member of this body, will deserve substantial credit.

I am here tonight because I represent a district which consists of working families for whom the abstractions of this debate do not mean much but who desperately need help on their prescriptions. This program that is being proposed in this landmark legislation would give them a flexible and affordable benefit, one that would be voluntary, a program that would give them real choices, allowing them to customize their benefits. It would provide a benefit that would be very substantial, more generous in fact than the one that had been previously proposed by the Clinton administration that folks on the other side of the aisle once embraced.

This is a program that represents a $350 billion investment in the Medicare program and one that would provide substantial benefits to seniors that would be available for a premium of about $1 a day. At the same time, for those seniors, including many in my district who cannot afford that premium, this program would provide full coverage for low-income seniors.

What is particularly striking about this legislation is that it establishes a firm ceiling, a limit, catastrophic coverage for people who participate in this program, an ultimate limit on the amount of prescription drugs they would be liable for in a given year, a limit of $3,700. That is extraordinarily generous, and it positions people who participate in this program to be able to have affordable drugs when they need it.

The 30 percent discount that is built into this program has been much mentioned. Let me say it also allows CMS to negotiate with the drug companies to get the best possible discount and to sharpen their pencils.

This is a great program, and I hope the House will pass it tonight.

Mr. STARK. Mr. Speaker, I recognize the gentlewoman from Florida (Mrs. THURMAN) for 15 seconds.

Mrs. THURMAN. Mr. Speaker, we keep hearing this 30 percent. Actually, there has been a letter dated by the CBO on July 26 that says that they are confused, that there has been some confusion about the meaning of the 30 percent cost management factor that CBO applied in analyzing H.R. 4954. It goes on to say, the savings are stated as a proportion of total spending and do not represent a per-prescription discount.

Mr. STARK. Mr. Speaker, I am privileged to yield 2 minutes to the gentleman from Arkansas (Mr. ROSS), who understands why the National Association of Chain Drug Stores and the National Retail Federation and other pharmacy groups have said they consider a vote for the Republican bill to be a vote against the professional pharmacy and pharmacists.

Mr. ROSS. Mr. Speaker, I do rise in opposition, strong opposition, to this bill.

Just a few months ago, I was in Glenwood, Arkansas, a small town in my district, and ran into an elderly woman who is a retired pharmacist and who just happened to be a relief pharmacist in my hometown when I was a small child growing up.

She related the story to me about how when I was a child and she was a pharmacist, if she had a prescription that cost over $5, she would go on and fill the next one while she built up enough confidence to let the patient know it was going to cost $5. I think that really demonstrates, more than life itself, that today's Medicare, if we think about it, was really designed for yesterday's medical care.

Health insurance companies, which are very greedy, in my opinion, make huge profits and even they cover the cost of medicine. Why? Because they know it helps patients to get well and live healthier lifestyles.

As a small town family pharmacy owner, I am sick and tired of seeing seniors leave the doors of our pharmacy without their medicine. And living in a small town, I learn a week or 10 days later where they are in the hospital running up a $10,000 or $20,000 Medicare bill simply because they could not afford their medicine or could not afford to take it properly. So I came to Congress to try to do something about it.

This should not be a partisan issue. I wrote a bipartisan bill alongside the gentlewoman from Missouri (Mrs. EMERSON), a Republican; and the Republican national leadership would not give us a hearing on our bill. They would not give us a vote on our bill.

Now, less than 5 months before, yes, another election, they are coming to us with this plan, this so-called Medicare plan, which has nothing to do with Medicare other than attempting to privatize it, written by the drug manufacturers for the drug manufacturers.

I know my colleagues have heard a lot from both sides tonight and that very few seniors are still awake listening because it is midnight, and that is the reason they are bringing it up now, but let me say this: Do not listen to them and do not listen to us. Go to the family pharmacist and ask them which plan is right for America.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. THOMAS).

Mr. THUNE. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from South Dakota.

Mr. THUNE. Mr. Speaker, I thank the gentleman for yielding to me; and I want to commend the chairman, because I know he has worked hard, along with the gentlewoman from Connecticut, to fashion a bill that addresses these concerns.

Mr. Speaker, we have seniors in South Dakota who need prescription drug relief. We have rural providers who need relief. I also share some of the concerns the gentleman just voiced about the pharmacist, and I would inquire of the chairman whether, as this process moves forward, he would be willing to work with me to provide assurances to pharmacists, particularly those in rural areas, that their concerns will be addressed?

Mr. THOMAS. Reclaiming my time, Mr. Speaker, I appreciate the gentleman's concerns. We have moved in the direction. There are still some concerns, and I assure him that, as we move forward in Congress, we will address the concerns of pharmacists.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 15 seconds.

I would like to point out to the gentleman from South Dakota that, while on page 18 of the other party's bill they say they require any willing provider, on page 8 of the other party's bill they say that there has to be pharmacy networks and the networks can determine cost sharing for beneficiaries outside the network.

So their bill does not provide any willing providers; and ours, at a later time, provides a lot of recognition to pharmacists.

Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank the gentlewoman from Connecticut for yielding me this time and who has worked so hard on this legislation.

It is important for citizens of my home State, Arizona, the seniors there who are still awake at what is 20 until 9, prime time in the State of Arizona, to understand exactly what we are doing in this legislation.

Despite the wailing and gnashing of teeth about process, we ought to focus on results. Here are the simple facts, Mr. Speaker: Under our plan, prescription drug coverage under Medicare is available to every senior who wants it. Every senior who wants this plan will be eligible for coverage. We will leave no senior behind.

That is especially important when we look at the people who need the most help. The 44 percent of seniors nationwide below 175 percent of poverty, their benefit is paid for. Over $40 billion in savings to Medicaid. Real money for real people with a real prescription drug benefit.

And this is the most compelling argument, Mr. Speaker. When we cut through all the smoke and mirrors and all the rhetoric, what seniors want, what I heard at the Mesa Senior Center a couple of weeks ago, was that seniors want prescription drug savings now. When we pass this, when the other body takes its action, our plan begins covering seniors and lowering costs as soon as 50 days after the President signs the bill into law.

Mr. Speaker, the time is now to act. If this can be moved, if this bill can become law, seniors can start realizing savings before Christmas. The perfect present to give our mothers and fathers and grandmothers and grandfathers. Support this legislation.

Mr. STARK. Mr. Speaker, I yield myself 25 seconds to remind the gentleman from Arizona that he should tell the seniors in Mesa that he has lined his own pockets with a benefit for Members of Congress which is 50 percent more generous than what he is willing to give the seniors in his home State, and that he and the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Florida (Mr. SHAW) voted against eliminating cost sharing for preventive benefits for seniors.

Now that again shows us how much they care for the seniors in Hartford or in Florida or in Arizona.

□ 2345

Mr. Speaker, I yield 1 minute to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, there is an old adage that says those that pay the piper name the tune. We are here tonight on a tune that was written by a $30 million dinner a few nights ago. As I understand it, the senior citizens were not allowed to even win door prizes for prescription drugs at that event. And $30 million would have undergirded the cost of prescription drugs for millions of seniors who need them across this country. Those that pay the piper name the tune.

When the nonpartisan Congressional Research Service did a comparison of the drug benefit under the Blue Cross/Blue Shield standard option available to Federal employees to the Democrat and Republican prescription drug plans, they found that the Republican plan would give about 40 percent of the coverage Members of Congress receive, but the Democratic would give comparable coverage. But those that pay the piper name the tune and obviously have now begun to get their thrill on Capitol Hill.

Mr. Speaker, the senior citizens still suffer with a headache or heartache from this incredible sham that the Republicans have offered.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. WELLER).

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

Mr. WELLER. Mr. Speaker, I am proud to say tonight we have an opportunity to provide prescription drug coverage under Medicare for our senior citizens. Tonight we are seeing an example of two different kinds of debate. Some people want to offer partisan rhetoric for political purposes. Others want to offer policy, policy which gives a solution to the challenge we have. The bottom line is we want to provide prescription drug coverage for our seniors.

It was quoted earlier this year, one of the advisers to the Democratic leadership said, ''One of the biggest worries that our policy people had was that they would actually write a good bill.''

We have a good bill before us. This is a bill that increases funding for Medicare by $350 billion, provides prescription drug coverage under Medicare, lowers the cost of prescription drugs now, guarantees all senior citizens prescription drug coverage, improves Medicare with more choices and more savings, and strengthens Medicare for the future.

The question is: What does that mean for the average senior citizen? The bottom line is under the plan that the gentlewoman from Connecticut (Mrs. JOHNSON) is managing before the House of Representatives, we have an opportunity to save for senior citizens real money. The overall out-of-pocket drug costs would fall by as much as 70 percent according to the Department of Human Services with the plan we have before us today.

According to a Health and Human Services study released this week, the House Republican plan would provide real relief for seniors and disabled Americans. Those who now pay full retail prices would typically see the cost of each prescription cut by 60 to 85 percent. Their overall out-of-pocket drug costs would fall as much as 70 percent, all in exchange for an affordable premium of $34 a month.

It is projected that the average senior would save $940 a year as a result of this plan. We have a plan that takes $18 billion out of the pockets of the pharmaceutical companies and saves the average senior $940. It deserves bipartisan support.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, this is one of those proposals that is perhaps best considered very late in the evening when the cover of darkness can attempt to hide the shame of the proposal. This bill is about creating the appearance of doing something when it does nothing to improve the lot of our seniors. When we get right down to it, despite the charts, the Republicans have no plan. All they offer is a placebo based on privatization. I suppose we can call it a Swiss cheese plan, but seniors get all of the holes and no cheese. There is no guaranteed deductible, no guaranteed premium, no guaranteed benefit, and there is no insurance company that has ever offered a plan of this type; and most have said that they will not be able to provide a plan of this type.

It all centers on the Republican ideological insistence that we must privatize Medicare, and that is not a prescription for reform; it is a prescription for disaster.

This very day, one of their top leaders called the plan that Lyndon Johnson signed into law and upon which millions of Americans have relied, had the audacity to call it a Soviet-style plan. They did not like Medicare then. They have never accepted it, and they are determined to use this device to privatize it.

Further, we find in the fine print of the plan in the paragraph called noninterference, a specific command that the administrator of this program cannot act to reduce costs. This figure of $18 billion has been pulled out of the air by a Republican Health and Human Services administrator. It has no basis in fact.

Rather, with this bill, the Republican leadership has once again pledged its allegiance to the pharmaceutical manufacturers whose price gouging forces our seniors to pay the highest prices of anyone in the world. Little wonder that those same manufacturers are continuing to pay for ads all over the country telling people that the Republican partners are great people for obstructing the help that our seniors so desperately need.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, this is an important night for the seniors in my community. I am proud the House is standing up for seniors who desperately need an affordable, permanent prescription drug plan under Medicare, and who need it right now.

The House plan gives America's seniors the right to choose the Medicare prescription plan that is best for them with catastrophic protection for the very costly illnesses, extra help for the poor who need it the most, and lower drug prices for all seniors using group buying power so drug companies will compete for our business and not the other way around.

That means for nearly half up Texas' seniors on Medicare, they will receive up to $2,000 of essentially free medicine each year that they need, and that is real help.

Thankfully, tonight we are rejecting the alternatives, alluringly irresponsible schemes that are simply too good to be true, schemes that would bankrupt Medicare within 10 years and leave our vulnerable seniors to face grim choices. I support the Republican plan, and my seniors do as well.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BACA), who understands that the AARP opposes the Republican drug bill in its present form and says that it needs vast improvement before their members can support it.

Mr. BACA. Mr. Speaker, I stand in opposition to this shameful decoy that creates the illusion that it covers all seniors, when we know that it does not cover all seniors. It only covers someone as long as it only reaches a certain limit.

We have to make sure that all seniors are guaranteed coverage, make sure that they are able to get the kind of services that they need. Currently right now, they cannot even buy or put food on the table, and they have to decide between buying prescription drugs or not.

This is like an insurance plan in California, telling drivers they have the coverage, when in fact they have the coverage as long as there is no accident. The minute there is an accident, the premiums go up, and you lose the coverage. They are afraid. They are afraid to file a claim. This is the same situation that we are going to have here. We are going to have seniors that are afraid to buy drug prescriptions because their coverage will go up. They will continue to go to Tijuana and buy it cheaper because they do not have the coverage. This is shameful and a decoy. We should support the Democratic plan that covers all seniors and all individuals.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. RYAN), but in the course of doing that I want to mention that the Congressional Budget Office in their letter to us made clear that exempting Medicare prescription drug plans from Medicaid's best price drives down drug prices $18 billion for our seniors.

Mr. RYAN of Wisconsin. Mr. Speaker, I would like to put one thing straight. The AARP does not oppose this bill.

But for the benefit of Members who are truly listening to this debate and trying to make up their minds, let me point out three distinct differences. The Democratic bill will have the consequence of pushing out private-sector-provided prescription drug coverage. The Republican bill supplements that. What the Democratic bill will do, will have the consequence of making sure that all those employers who are providing prescription drug benefits for their employees do not do so any more so the government will pick it up so we are needlessly forcing taxpayers to pay for a benefit that the private sector is already providing.

The Republican bill includes deeper discounts on prescription drugs than the Democrat bill does. The Democrat bill is a $1 trillion-plus bill that will do nothing more than make Medicare go broke faster. We have a problem. We have two problems. We need prescription drug coverage for our seniors. We need to give them access to deep discounts on their price of drugs, and we need to make Medicare solvent for the baby boomer generation. The Democrat bill fails in that area. The Republican bill delivers.

Mr. STARK. Mr. Speaker, I yield 15 seconds to myself to apologize to the Republicans and quote the actual words that I misspoke. The AARP does not oppose their bill, they just say that it requires improvements before our members would support their bill. I want the record to make it perfectly clear, while they do not oppose it, they do not support it.

Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, I could not support the Republican bill because we have to have fairness. It does not offer fairness. As a matter of fact, I just completed a survey in Tennessee, and the fact is that prescription drugs are twice what they are in Canada and Europe and Asia. But that is not true just in Tennessee; it is true all over the country.

There are a lot of things we could do. The Bush administration could reimport those drugs from Canada right now, and we would get a break. We have a lot of people on the border that can go across the border and get prescription drugs, a 90-day supply. There are a lot of things that we can do that are not being done.

The United States Senate Democrats have a very good plan, and we ought to look at the Senate Democrat plan because we are not going to get any justice here.

I suggest to Members, vote ''no.'' The fact is we are subsidizing other countries. We have got price gouging going on by the pharmaceutical companies at present. We need to give relief now, and prescription drugs should be part of the Medicare package.

□ 0000

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. VITTER).

Mr. VITTER. Mr. Speaker, I rise in proud support of this Republican prescription drug plan. Prescription drug coverage is absolutely critical for seniors today, and no senior should have to choose between paying for prescription drugs and paying for food or rent. So we are acting and we are producing a plan and we are passing a plan to give seniors choice. They can choose the plan that works best for their needs. It reduces their out-of-pocket costs for prescription drugs, gives them a lifetime benefit, and the plan is voluntary.

So if seniors have a plan already that they are happy with, they can stay with it. They are not going to get kicked out. But for those without coverage, this bill will help them get that coverage and cover those escalating costs of prescription drugs.

Seniors deserve a prescription drug benefit, not just talk, not just debate, and they deserve it today, and that is why we are going to act today, not talk, not debate but act, act responsibly and act within a budget that we can sustain over time.

Mr. STARK. Mr. Speaker, I am honored to yield the balance of my time to the distinguished gentlewoman from California (Ms. PELOSI), pending which I would just like to remind all the seniors in the country to review all the

votes that the Republicans took against their interests in coming to this useless bill which they have brought to the floor.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentlewoman from California is recognized for 3 minutes.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time and thank him for his leadership and that of so many other members on the Committee on Commerce and the Committee on Ways and Means for their leadership in making the distinction between what the Democrats would have proposed had the Republicans not been afraid of seeing a real prescription drug benefit plan on the floor tonight and their sham, their cruel hoax, on America's seniors that they have presented.

Why is it a cruel hoax? It is a cruel hoax because it helps pharmaceutical companies and HMOs and it does not help seniors pay for needed medication. It is a cruel hoax because there is no guaranteed coverage because insurance companies just will not offer plans. Our plan would have guaranteed coverage for all seniors through Medicare. Their plan does nothing to lower prices and ours would have lowered prices by enabling Medicare to negotiate on behalf of seniors. It goes on and on.

What is very important for me to note is that we spend annually $70 billion on doctors under Medicare, $140 billion on hospitals. It would be necessary to spend $90 billion on pharmaceuticals. It sounds like a lot of money, and it is. But it is a tremendous investment in the health of the American people.

The committee on which I serve that funds the National Institutes of Health, we have seen the progress in science since the inception of Medicare. It is miraculous what these drugs can do. Would it not be great if seniors could have the opportunity to have funding for self-administered drugs that is prevented so far and that the Republican bill does nothing to improve?

It would save seniors money. It would save the taxpayers money. Because these drugs are not only an adjunct to care and to hospitalization, they are a substitute for it. It would improve the quality of life, it would save the taxpayers money, and it would go a long way to restoring the dignity to our seniors which we owe them.

Every family in America, Mr. Speaker, is just one accident or one diagnosis away from sadness not only in terms of what it means to physical health but in terms of economic security. We have an agreement with the American people that their health is part of the strength of our country. Access and affordability are linked. Access to affordable prescription drugs is central to the health of our senior population. We owe them better than a debate on a sham bill that has no guarantee. It is a suggestion but not a guarantee. It is not a prescription drug entitlement under Medicare as what is promised and should be promised to our seniors. Again, it does nothing to address the issue of cost.

Every senior in America deserves the respect and dignity of economic and health security. The Republican bill is a cruel hoax on them. I urge a ''no'' vote.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 5 seconds.

Respectfully, how could a sham bill accelerate the pace at which technology will come into Medicare for the first time ever? And I am proud of it.

Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. GRUCCI).

Mr. GRUCCI. Mr. Speaker, I thank the gentlewoman for yielding me this time. When I went back to my district and I started talking about this program and this plan for senior citizens, I was wondering what kind of reception I was going to get, what they were going to say to me, the things that they would tell me.

One of the things I saw that really lit the fire of passion in my heart on this issue and on this particular bill was when I saw the hope in the eyes of the senior citizens when they recognized for the first time ever they were going to get help on their prescription drugs, that the cost of their prescription drugs was going to come down, that they were going to be able to put hundreds of dollars back into their pockets and they were going to be able to use that for the rhetoric that we keep talking about, to buy their food, to be able to put heat in their homes, so that instead of having to stretch their medicine, they could take it as prescribed.

I sat across the table from these senior citizens and they were not just telling me rhetoric, they were telling me how they have to live their lives. When they saw the benefits of this program coming in front of them, when they saw the opportunity to get their money back into their pockets, they had hope.

For that, Mr. Speaker, I encourage my colleagues here tonight to have a ''yes'' vote on this particular bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri (Mr. BLUNT).

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BLUNT) is recognized for 1 minute and 40 seconds.

Mr. BLUNT. Mr. Speaker, I thank the gentleman for yielding time, the great job she has done on the floor tonight and the great job that she and the committee have done with this bill.

This is a tremendous step forward. It provides so many things that seniors need. The amount of money allocated to this bill is possible. It is within budget. Health care providers and hospitals support this bill.

The AARP in a letter to the chairman of the Committee on Ways and Means said, ''We are pleased that your bill makes the voluntary prescription drug benefit permanent and maintains the entitlement nature of the Medicare program.''

This is something that can actually be done. It is within a real budget. It is an amount of money that can be spent for this purpose and can start immediately. It makes a difference in the lives of seniors.

Certainly health care delivery has changed dramatically since Medicare was created. This benefit needs to be added to Medicare. It needs to be an entitlement, not an experiment. It needs to be something that we do now, not come up with an amount of money that is impossible to do for years to come.

The amount of money allocated to this bill far exceeds the amount of money that our friends on the other side of the aisle said was necessary just 2 years ago. New drugs and devices would not be a result of a government-run health care program. They will be a result of a program that maintains incentives but guarantees lower cost, guarantees access, makes this an entitlement. It is supported by health care providers for a reason. The AARP says it has great merit for a reason.

We need to do this. We need to do it now. We need to make this a reality this year.

The SPEAKER pro tempore. Pursuant to House Resolution 465, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) each will control 30 additional minutes of debate.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Speaker, I yield myself 3½ minutes.

Mr. Speaker, I rise in strong support of H.R. 4954.

I first want to thank the gentleman from Michigan (Mr. DINGELL) and all the members of the Committee on Energy and Commerce who spent over 30 hours of markup in producing this bill. I particularly want to thank my colleagues on the other side for the spirited but I think agreeably friendly debate we had that stretched over 3 days and ended up on Thursday when we started at 9:30 and completed at 8:30 the next morning.

This is a complex piece of legislation. I have heard people describe it on the other side as a hollow bill that contains no benefits. Let me make it clear, this is a bill that spends 350 billion of American taxpayer dollars that will create a valuable new entitlement for Medicare beneficiaries, that will finally provide them with prescription drug coverage, and it will do so in a comprehensive way, ensuring that the benefit will work within a stronger Medicare system for decades to come.

I do not speak just for myself. Let me quote a letter from the AARP. The letter from the AARP says our members and virtually all older Americans need this coverage now. They are tired of excuses. They are tired of politics. They want us to pass this benefit bill now.

Here is what they said about our bill. ''We are pleased that your bill makes

the voluntary prescription drug benefit permanent and maintains the entitlement nature of the Medicare program.''

They went on further to say, ''The bill contains other favorable components as well.'' They talk about the coverage of the first $2,000 in the bill and particularly the financial assistance for low-income beneficiaries with drug costs under $2,000 as being vitally important. They also mention, and I quote, we appreciate your efforts to contain drug costs because a Medicare drug benefit bill alone without effective cost controls will be difficult to sustain. They understand we cannot bankrupt Medicare. We have got to make this system work within our budget.

But they went on to say, ''You can improve this. We don't like this home health copay.'' It is now gone. Our committee voted it out, and it is not in the bill.

They asked us to do what we could to close the gap, the $4,500 gap that existed between the first $2,000 of coverage and the catastrophic coverage. We found $18 billion by forcing the pharmaceutical companies to negotiate discounts below the so-called best price, $18 billion from pharmaceutical companies, and we lowered that loss from $4,500 of out-of-pocket expenses down to $3,700. We paid $800 more of drug cost in the bill now, exactly what AARP asked us to do.

Finally, they said, it is important, because our research indicates that Americans are looking for stability and dependability, to ensure that private sector entities will be willing to offer coverage.

We have a letter, too, from the Health Insurance Association of America and this is what their letter says:

''The improvements contained in the proposal should make the benefit more attractive to beneficiaries. Consequently, there is now a much better chance our members will offer the benefit.''

We have a comprehensive plan, a permanent plan, a voluntary entitlement within Medicare that is within budget, that insurance companies say they will be able to work under it and provide plans and what CBO says as high as 97 percent of the seniors in America will find drug coverage and participate in.

This is a great bill. Seniors want it now. They are tired of politics. Let us pass it tonight.

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

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I listened to the chairman of our committee from Louisiana, and it bothers me because he is not looking at the bill. He is not talking about the Republican bill that is on the floor of this House. This is not a Medicare bill. This is not a Medicare program. There is nothing in this bill that is going to help the average American senior.

If you look at it, first of all, we know that it does not provide Medicare coverage, no guarantees. What it does is to give some money and throw some money to private insurance companies in the hope that somehow they are going to provide a Medicare benefit. The insurance companies have said they are not going to provide the benefit. If they were providing the benefit, we would not need a Federal program.

Let us imagine that somewhere, somehow, I do not believe it, but somewhere, somehow some private insurance company is willing to provide the plan the way the chairman describes. Why in the world would anybody buy into such a plan? Look at some of the figures that we have.

First of all, if I could use this chart, it shows very dramatically that the senior citizen is only going to get about 22 percent of their coverage paid for by the Federal Government, compared to the Democratic plan which was significantly more. Look at this so-called doughnut hole in coverage. In the beginning you are going to get, if it is even available, you will get some money in the very beginning, up to $1,000 and then up to $2,000 out of pocket. But then after that there is no coverage. For 40 percent of the beneficiaries, the average senior citizen, they are going to get no coverage during this interim period.

If you are going to be in a situation, either there is no plan at all, you do not have the advantage of a plan because the private insurance companies do not provide it, or, secondly, the premium is so high, the deductible is so high or it costs so much over the course of the year that it is not even worth buying.

Who in the world would want to buy the coverage even if it was available? The answer is nobody. That is the reality of this bill.

The other thing that really bothers me here is I have heard some of my colleagues on the Republican side tonight talk about how there is going to be a 30 percent discount. I asked the gentlewoman from Connecticut (Mrs. JOHNSON), where is this in the bill? There is nothing in the bill that provides any discount here. She is assuming that there is going to be some competition to provide it, but they put a noninterference clause in the bill that prevents any price reduction. They do not want price reduction.

□ 0015

Mr. TAUZIN. Mr. Speaker, I note that New Jersey is going to receive $1.5 billion in Medicaid savings directly from this bill, and 40 percent of their seniors will receive subsidized coverage of their insurance premium.

Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me this time.

Before I get into my remarks, I would say that the gentleman from New Jersey, as usual, does not listen. When the chairman read from the AARP letter, when they said, ''We are pleased that your bill makes the voluntary prescription drug benefit permanent and maintains the entitlement nature of the Medicare program,'' that means it is under Medicare.

Mr. Speaker, obviously, I rise in support of the bill. I believe that today's vote is another example of our commitment to getting something done for seniors this year, not just talk about it this year.

The bill creates a new entitlement under Medicare. Senior citizens and persons with disabilities will now have access to a voluntary, comprehensive prescription drug benefit. Our bill creates this benefit without jeopardizing the financial health of the overall program, which would certainly happen under the plan offered by our friends on the other side of the aisle.

During the Committee on Energy and Commerce's consideration of the bill last week, committee Democrats offered an amendment in the nature of a substitute that, while not scored, would likely cost over $900 billion over 10 years. I was disappointed that they would offer such an irresponsible plan during such a serious debate, especially since, just last year, House Democrats included $330 billion for a new prescription drug benefit in their proposed budget resolution.

A benefit without explanations is, of course, no benefit at all. The counterproposal offered by my colleagues does not explain how they would fund this enormous program since they did not even offer a budget resolution this year. I repeat, they did not even offer a budget resolution this year.

The fact that they have now tripled the amount they say is necessary for a prescription drug benefit tells me that, instead of being serious about a solution, they care only about outbidding Republicans in an attempt to score a political point for the November elections. After all, as has been said before, they controlled this House for 40 consecutive years and at no time did they attempt to address this problem.

We are addressing it. We want to help seniors now, not just use political rhetoric.

Our plan provides Medicare beneficiaries with meaningful, comprehensive coverage. It does not force beneficiaries into a one-size-fits-all program where bureaucrats pick their medicines. Instead, seniors will have a choice of at least two prescription drug plans which will provide the best price discounts available. The bill also puts into effect an idea presented to me some time ago by Dr. William Hale of Dunedin, Florida, to offer at government expense an initial medical physical for all beneficiaries going into the Medicare program. It is easy to envision, I think, that many diseases will be picked up at that time in their early

stages and, thus, result in more healthful retirement years and ultimate health cost savings.

Mr. Speaker, H.R. 4954 places an appropriate focus on two populations that have long been, as many know, a priority of mine: the low-income senior without prescription drug coverage and the very ill senior who is in danger of impoverishing him or herself in order to pay for their medications.

The bill we are considering today includes strong protections for these vulnerable beneficiaries. It fully subsidizes cost-sharing, except for nominal copayments for Medicare beneficiaries with incomes up to 75 percent of poverty. This feature means that 44 percent of our Nation's seniors, those with incomes less than $15,505 for singles and $20,895 for married couples, could be eligible for full cost-sharing assistance. Mr. Speaker, $20,895 for married couples, could be eligible for full cost-sharing assistance.

Our bill makes needed changes to the program by raising reimbursement rates. That has been talked about.

Mr. Speaker, I hope that the Senate follows our lead and passes a bill soon so that we can begin the process of reconciling our two packages later this year. This is a good bill, a responsible plan, not a perfect plan by any means, but intended to help our seniors now, and we need to support it.

Mr. DINGELL. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Ohio (Mr. BROWN), the ranking member of the subcommittee.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

The Republican HMO drug plan does several things.

First of all, it begins the process of privatizing Medicare. The Republican HMO drug plan gives 30 percent less choice, 30 percent less choice for seniors' prescription drugs. The Republican HMO drug plan is an entitlement for insurance companies, not for America's seniors. It does nothing to bring drug prices down. In fact, prices in the United States will continue to be, under the Republican plan, the highest, two, three, four times what they are in other countries, the highest prices in the world. And the Republican HMO drug plan gives benefits almost twice as good to Members of Congress as it does to America's seniors. As we can see on this chart, Members of Congress have a plan worth about $2,100. The Republican plan provides for America's seniors a plan worth about $1,300.

Now, why would our friends on the other side of the aisle come up with a plan like this that privatizes Medicare, that gives seniors 30 percent less choices, an entitlement for insurance companies, that most outrageously gives a much better plan to Members of Congress than it does to America's seniors? Why would they do that?

I think the answer to that, Mr. Speaker, came last Wednesday afternoon when our committee, the Committee on Energy and Commerce, adjourned early at 5 o'clock so that all of the Republican Members could troop off to a $30 million, that is $30 million fund-raiser underwritten by the American drug and the prescription drug industry where the money went to feed the coffers of Republican Party candidates. This fund-raiser was chaired by the CEO of one of the world's largest drug companies, the CEO of Glaxo, a drug company located in England, a foreign drug company. His company gave $250,000 to this Republican event. He was joined by $250,000 contributions from the trade association representing the drug companies and many others.

The question, Mr. Speaker, is of voting for a plan that is written by and for the drug companies or a plan for America's seniors.

So, the next day, when Members of Congress from our committee returned to vote on legislation, to vote on this prescription drug bill, surprise: every vote cast by my Republican friends, whether it was to make the seniors' plan the same as Members of Congress, whether it was to bring prices down, whether it was to reduce out-of-pocket expenses, every time these Republican Members of Congress voted with the drug companies.

It is a question of, do we vote for legislation written by and for America's drug companies, or do we vote for legislation written for America's seniors?

Mr. TAUZIN. Mr. Speaker, Ohio, under our bill, will earn $1.8 billion in Medicaid savings, and 38 percent of their seniors will get free premiums under our bill.

Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Kentucky (Mr. WHITFIELD), a distinguished member of our committee.

Mr. WHITFIELD. Mr. Speaker, I have been somewhat shocked, really, at the animosity expressed against our plan this evening. Medicare as it exists today uses private companies to administer the Medicare program. Under the Democratic plan, private companies will be used to administer their drug program, just as ours is.

I was looking, and in Kentucky we have 615,000 citizens under Medicare. Under this plan, the plan that we will be voting on and passing tonight, 315,000, or 50 percent of them, will basically receive free prescription drugs with a very small copay of like $2 for generics and $5 for name-brand drugs. So how could we possibly oppose helping seniors with this kind of a meaningful program?

We have heard a lot of discussion tonight about how horrible the drug companies are in America. I think they have the best research and development, and we are fortunate to live in a country where drugs are being discovered every day to cure serious diseases.

Mr. Speaker, I urge the support and passage of this legislation.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank the distinguished ranking member for yielding me this time.

Mr. Speaker, I rise tonight to speak about an issue that calls to a need of the American people. This is really a solemn moment in this Chamber, and I regret enormously that my friends on the other side of the aisle did not have enough confidence in themselves to debate here tonight two plans, not just their plan. So since it is just their plan, that is what I am going to direct my comments to.

I know you all love your mothers and fathers. So do we. We all love our families. We are talking about the American family. We are talking about senior citizens.

Now when the American people go shopping for coverage for something, what do they want? They want something that is comprehensive, they want something that is affordable, they want something that is guaranteed, and they want something that is understandable. They have come to trust the gold standard that Medicare represents.

Now my friends on the other side keep using the word ''Medicare.'' Do we know why? It is the best marketing word in the country. But look at the fine print. What they do is they put the language down for Medicare, but they take the taxpayers' money and shift to private insurance companies, with no guarantee that there is any insurance company that is going to bring them these benefits.

So American people: Beware. Beware of false advertising. This is no more a Medicare prescription drug plan than I am a redhead.

Mr. TAUZIN. Mr. Speaker, the State of California will get $5.1 billion in Medicaid savings under this bill, and 1.5 million California seniors, including redheads, will get free premium insurance coverage.

Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, this is a $350 billion bill. Since when has $350 billion been pencil dust, I ask my colleagues. That is a third of a trillion dollars.

Mr. Speaker, 37 percent of Iowan senior citizens will have no copayment, deductible, or premium. They will get this benefit free. That is not pencil dust.

We have another problem that we have not addressed, and that is that in rural States like my State, rural hospitals and other providers, the rural hospitals are going broke and other providers are not taking care of, cannot take any more Medicare patients into their practices, and this bill addresses that. This bill addresses that.

Without this bill, we would have a 15 percent cut in physician payments. Without this bill, rural hospitals in Iowa will go bankrupt. This bill provides Iowa with $330 million in additional payments for Medicaid, and this is at a time when my State is struggling to meet its payments.

This bill helps seniors. U.S. Seniors endorses it, and Sixty Plus. It helps the providers like physicians to keep taking Medicare patients into their practices.

□ 0030

It helps keep the rural hospitals open. That is why it is endorsed by the AMA and the American Hospital Association. Ninety-five percent of seniors would find this a good deal and sign up for this bill.

This bill basically is a bird in the hand. That is worth more than two or three in the bush. Senior citizens in Iowa are telling me that $350 billion now will help a lot, and that is a lot better than an empty promise for two or three times more than that.

Mr. Speaker, a few winters ago, when Iowa was experiencing skyrocketing home heating bills, I received numerous letters from Iowa seniors who were forced to choose between paying their monthly heating bills or paying for their prescription drugs.

I don't believe that's a choice Iowans should have to make.

That is why this week, I have been working with my Energy and Commerce committee to pass the Medicare Modernization and Prescription Drug Act of 2002, which would provide a prescription-drug benefit for needy Iowa seniors through Medicare.

Although many members of the other party continue to treat Medicare as a political football, we are moving forward to provide immediate help to those who need it most.

Specifically, the bill includes an affordable and permanent prescription drug benefit with an average premium of $35 per month. The bill also includes a standard benefit that would begin with a $250 deductible and pay 80% of spending up to the first $1,000 and 50% up to the second $1,000. Seniors who meet the low-income criteria (50% of seniors currently without coverage) would pay less than $5 per prescription, up to coverage limits. All participants are protected against catastrophic costs, with out-of-pocket expenditures capped at $3,800 per year. An estimated 94% of eligible seniors in this country would participate in this plan in the first year, according to the nonpartisan Congressional Budget Office.

In addition to the drug benefit, our legislation also provides a boost to rural Iowa hospitals that, for too long, have ranked last in the country in Medicare reimbursements. The bill provides increased equity for all hospitals in rural areas, as well as increasing payments to sole community hospitals, rural home health agencies, and rural ambulance services.

Congressman NUSSLE and I also have worked to amend the legislation to provide an increase of up to $40 million per year to Iowa's non-teaching hospitals.

These provisions are significant because the vitality of Iowa's rural hospitals is central to the economy of our state. Our bill would help ensure that Iowans living and working in rural areas have access to reliable and affordable health care.

Our prescription drug legislation contains significant provisions for lower-income Iowans. Benefit premiums for Medicare beneficiaries below 150% of poverty level would be fully subsidized, as would cost-sharing expenditures for beneficiaries under 175% of poverty. Premiums for individuals between 150% and 175% of poverty would be subsidized on a sliding-scale basis.

The Medicaid provisions would mean savings of $337 million dollars to Iowa's state budget—needed help to our state legislators who are struggling to balance the state budget.

Has the other party proposed, a prescription drug bill of their own? Yes—a bill that irresponsibly busts the budget and risks bankrupting the entire Medicare system.

Our legislation, on the other hand, provides an immediate $350 billion drug benefit and fits into the budget.

So, do Iowa's seniors want our prescription-drug benefit now, or the other party's empty promises of a drug benefit at some undetermined point in the future?

The answer is that Iowa seniors want help now—because they realize that a bird in the hand is better than two in the bush.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this bill and the two proposals, one is in front of us and one was not allowed to be in front of us, really are fundamental policy differences. What the American people want is to have prescription drugs as part of Medicare.

When Medicare was created in 1965, there are two interesting statistics. One is that the average age of Americans was 65 in 1965. It has gone up by more than 10 years. I think we consider that a high-class problem.

The second interesting statistic is that the out-of-pocket payments by seniors in America, the percentage of their income has actually gone up, even with Medicare.

One of the main reasons for both of those statistics is because of prescription drugs. We cannot conceive of a Medicare program, which is an insurance program, it is a forced insurance program, and that has been Medicare's success, we cannot conceive of that being set up today without prescription drugs.

What my colleagues on the other side of the aisle are proposing, and I do not doubt the chairman of the full committee will cite a statistic about Florida saving Medicaid dollars after I finish speaking, but that is not Medicare, Mr. Speaker. That is not Medicare.

That is not what American seniors want. It is a sham. It is misadvertising for American seniors, and they get it. They get it, and they do not want it. They do not want what Members are proposing. What they want is simple. They want an expansion of Medicare coverage for prescription drugs, because they understand on a day-to-day basis that prescription drugs are a necessary component of Medicare, and eventually the American seniors are going to get what they want, regardless of the action that we take today.

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

Mr. Speaker, Floridians, seniors under Medicare, over 1 million will have free premiums under this bill, and the State of Florida will receive $3.1 billion in Medicaid savings.

Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. BURR), distinguished vice chairman of the Committee on Energy and Commerce.

Mr. BURR of North Carolina. Mr. Speaker, I have listened to the debate tonight for over an hour. I have heard the word ''sham'' and I have heard other words used. Those words are in fact about a benefit that we are going to extend to Medicare, a benefit that had not been extended since 1965, when Medicare was created.

Mr. Speaker, tonight we have a great opportunity. We have a great opportunity to pass a bill that is not perfect, but few things in this House are. We have the opportunity to extend for seniors for the first time coverage that the majority of Americans eligible for Medicare want and need. I do not think that is a sham; I think it is a tremendous opportunity for the Congress of the United States to pass for those individuals.

Some will get up and say that ''GOP'' is ''get old people.'' Maybe they ought to change the words tonight to ''GOPD, Get Old People Drugs.'' That is what we are here to do. If we can put aside partisanship, we can pass a bill that for the first time brings drugs to the American people.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I cannot tell Members how disappointed I am that we are not discussing a Medicare bill that will really meet the needs of the American people.

We are not doing it on a bipartisan basis. Who would have thought this is a partisan issue? Both parties promised prescription drugs for seniors under the Medicare program in the last election, but the Republican plan that is before us today does not provide an adequate benefit. It does not help bring down the cost of drugs or stop excessive pharmaceutical company profits. It does not establish what the premium will be, or if it will be affordable.

Our Republican colleagues claim that the premium is set the same way the Medicare premium is now established; but that is wrong, and they know it. Medicare's premium is not set by a private insurance company that is interested first and foremost in its own profits. These premiums will be set just that way.

The Republican plan does not guarantee help with the cost of the drugs the physicians prescribe for us, and it does not ensure that we get our drugs at the local pharmacy. The fact is, this plan does not guarantee anything except subsidies for private insurance companies.

Let us put a real benefit in Medicare. Let us defeat this bill and give people the help they need. If they want to compare, for those seniors who are

watching this, if they want to compare what they will get from the Republican bill and what they would have received from the Democratic bill if we had even had a chance to debate and pass it, go to the Web site. Go to www.House.gov/reform/min, and Members will be able to compare easily on that Web site what the reality is compared to all the promises we have heard from the Republicans.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY). The Chair would remind all Members to address their remarks to the Chair.

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

Mr. Speaker, not only will 43 percent of the seniors in California get subsidized premiums under this bill, but the State of California safety net hospitals receive over $63 million new dollars of help to provide health care.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I heard comments earlier tonight saying that we should not be debating so late, that nobody would be awake. My contention is it does not matter whether one is awake or asleep. We cannot get anything out of this kind of debate at all.

I do not believe I have ever heard more misrepresentations or mistruths or demagoguery on a subject in a long, long time. I could spend the night discounting some of the things, but some of the statements are just absolutely ludicrous, like people lining up over here saying that $320 billion going into prescription drugs is going to harm people. Who in the world thinks we are going to spend $320 billion of the taxpayers' money to harm somebody?

There are statements saying in 1964, Republicans hated Medicare; they voted against it. That is not true. That is not true at all. Republicans, in fact, the majority voted for Medicare, and not all the Democrats voted for Medicare in 1965. It was a discussion worth having back then.

But do not stand up here and say all Republicans hate Medicare. Those who continue to say that Republicans say Medicare is going to wither on the vine, I saw that speech. I have a copy of that speech. Newt Gingrich made the speech. He said that HCFA was going to wither on the vine, and that outdated organization needs to have some rework, because it is interfering with the care of patients, for pity's sakes.

There have been a lot of complaints about the rules, and not a lot of truths about the bill. This is not a perfect bill. I know that; Members know that. All of us could do better. Any one of us could write a perfect bill if we did not have to worry about a budget. We could write a perfect bill, all of us could, if we did not care about bankrupting the trust fund, but we do.

But I will tell Members what this bill will do. They can call it, say it, do any way they want to, but what this bill will do is it will help the poorest and help the sickest seniors. We need to do it now, because this is the only game in town.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding time to me.

With all due respect to the last speaker, this is not a perfect bill; this is not even a good bill. Through all this debate, I went back to my office tonight and listened to all this.

I pulled two letters from my district, one from Vanderbilt, Michigan. A couple there has $6,288 per year in drug costs. Under the Democratic plan, if we would ever get a chance to vote on it, they would pay $1,637 and they would save $4,650, or 74 percent of their drug savings.

Underneath their plan, their bill here tonight, they would have to pay $4,096. They would only save $2,192, or 35 percent of their drug costs.

The other couple I pulled was from Travers City, Michigan. They have $3,240 per year on drug costs. Under the Democratic plan, they would pay $1,028 and save $2,212 or 68 percent. Under the Republican plan, they would pay $2,536 and save only $704, or 22 percent.

Do the math. The Republican plan just does not add up.

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

Mr. Speaker, Michigan will get one and one-tenth billion dollars in this plan of Medicaid savings, and nearly 40 percent of their seniors will get subsidized premiums for their Medicare prescription drug coverage.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oregon (Mr. WALDEN) from our committee.

Mr. WALDEN of Oregon. Mr. Speaker, if we think about this, nobody has fought harder for Patients' Bill of Rights in this country than the gentleman from Georgia (Mr. NORWOOD), the gentleman from Iowa (Mr. GANSKE), and the gentleman from Kentucky (Mr. FLETCHER). They are unanimously in support of this bill.

These are careful legislators who have evaluated this bill carefully. They unanimously support it because they know it is within the budget. It will give care to those who need it the most. From the people that I represent, that is what is most important, that we put together a plan that will fit within the budget framework we have been given to operate under that will get them care, because they need help now. They need help now. They do not want partisan rhetoric. We are sick and tired of that in America.

This winter and spring, I went around and met with hospitals, doctors, patients, and seniors all across my district. The clear message was: get us help now; do what you can for us now. This bill does that. That is why organizations representing these doctors and hospitals and seniors and others support it.

It will help home health care; it will help Medicare patients. This is a good plan that will make a real difference for patients. It provides prescription drugs at no cost to those who make $15,000 or less a year in our senior community.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to my distinguished friend, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, watch out, Grandma. Watch out, Grandpa. The GOP doctors are on their way, and boy, do they have a prescription for you. Every senior citizen gets three bitter pills to swallow:

Pill number one is a half-dose of dollars. The Republicans provide less than half the money that Democrats provide to seniors in their plan so that they will not be burdened by the soaring cost of prescription drugs, but the Republicans will not allow a vote on that plan.

Pill number two is a poison pill for Medicare. The Republicans are diverting Medicare funds into risky private drug plans with no maximum premiums and no guaranteed coverage in a cynical drive to privatize the Medicare program. But they will not allow a vote to prevent the privatization of Medicare.

Pill number three is a privacy piracy. The Republicans allow the pharmaceutical fat cats to exploit Grandma and Grandpa's sensitive medical secrets in marketing schemes without their knowledge or consent, and they will not allow a vote to protect that privacy, which is inside of the Democratic bill.

''GOP,'' it used to stand for ''Grand Old Party.'' ''GOP'' now stands for ''get old people.'' Vote ''no'' on the Republican plan tonight.

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, how dare any of the Members suggest they love their mothers and fathers more than we love our mothers and fathers. How dare they suggest that we dislike our grandparents and would feed them bitter pills, and get them. How dare they make that suggestion.

My mother is alive because of Medicare. Medicare saved her life not once but three times. We are here to fight for Medicare and to improve it tonight, Republicans and Democrats alike. They have a different plan than us, but we all love our mothers and fathers. We all love our grandparents. How dare they suggest otherwise.

Mr. Speaker, I yield 1 minute to my friend, the gentleman from Michigan (Mr. UPTON).

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

Mr. UPTON. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I am pleased that we are moving forward tonight with a very important bill for our Nation's seniors,

our moms and dads and health professionals who care for them.

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No senior should be forced to forego needed medications, take less than the prescribed dose or go without necessities in order to afford life-saving medication.

The bill before us tonight will provide much-needed comprehensive Medicare, prescriptive care for all seniors who elect to participate. For those who can least afford their prescriptions, Medicare will cover a hundred percent of these premium deductibles.

In addition to modernizing Medicare by adding a prescription drug benefit, the bill before us tonight will also help to ensure that Medicare beneficiaries continue to have ready access to high-quality community-based health care services.

The bill fixes flaws in the Medicare prescription fee schedules that are resulting in significant unintended cuts in physician payments. It also improves hospitals and skilled nursing homing reimbursement, eliminates a scheduled 15 percent cut in home health payments, puts a moratorium on the cap on physical therapy reimbursement, and takes a good first step in improving reimbursement for ambulance services.

It is a good bill. I urge my colleagues to votes yes.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank my ranking member from Michigan for yielding me time.

It is hard to say in one and a half minutes how much is wrong with this piece of legislation. We should have the opportunity to debate alternatives to correct the problems, but the tyranny of the majority makes that mockery of democracy.

There is one major glaring problem that should be mentioned: the gaping hole in the coverage of the drug costs that exceed $2,000. If a senior has a $300 monthly drug bill, they can expect to lose their drug coverage halfway through the year. But they will have to keep paying month after month for the rest of the year until they reach that catastrophic limit.

Another problem is, if seniors have other coverage from an employer or maybe some help from their church or a charitable organization, these contribution will not count as out-of-pocket expenses for that senior. So that is wrong with the bill.

There is another major disincentive for employers to provide retiree health care. It will further erode what little health care coverage we have left in our country.

Diabetes is a major illness for seniors. This bill, granted, covers insulin, but it does not pay for the syringes. So those seniors have to pay to inject the insulin we will give them. What kind of sense does this make?

Mr. Speaker, there are so many problems with this legislation we should be allowed our alternative, providing a meaningful prescription drug benefit, but the Republican majority again is afraid to allow amendments to pass.

My Republican colleague from Iowa said that their bill is a bird in the hand, but seniors, when they find out what this bill does, will be left with only bird droppings in their hands.

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

Mr. Speaker, the seniors of Texas will receive $1.9 billion in Medicaid savings under this bill; and 55 percent of them will have subsidized premium coverage. That is not bird droppings.

Mr. Speaker, I yield 1 minute to my friend, the gentleman from Pennsylvania (Mr. GEKAS).

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

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me time.

There is an extra benefit that is being conferred by passage of this bill and that is to our veterans. Veterans are experiencing two phenomena that we can help remove here tonight. One is the higher cost of medications that they are experiencing, of course. All seniors will benefit from that. But there is another idea that we have to shake away from the existing scene about our veterans and that is the long waiting lines that they are experiencing at the VA hospitals.

In our central Pennsylvania area, some 6,000 are waiting to see a doctor in waiting lines, and their medications that will be prescribed are not waiting for them because of the long lines and because of the high costs of medication. Strike a blow here for your veterans as well as the other seniors by passing this legislation, reducing the cost of prescriptions to our veterans and reducing the long lines that they are now facing in and even waiting to see a doctor at VA hospitals for the purpose of medication.

Waiting lists at veterans hospitals across the country are growing. In central Pennsylvania alone there are over 6,000 veterans waiting to be seen. Nearly 70 percent of these veterans are rated as category seven by the VA, meaning that they have no service connected disability. In fact, the vast majority of them are seeking a meeting with a VA doctor solely in order to receive assistance with their medications. They are seeking help because of the high cost of their medications or because their health plan discontinued their pharmacy benefits.

Our new Medicare prescription drug benefit will reduce out-of-pocket drug expenses for Americans by 25–30 percent. That savings may help veterans in central Pennsylvania opt out of the long waiting lines at the veterans health care facilities in Lebanon, Camp Hill, Berks, Pottsville, and others. Veterans will be able to switch from their veterans plans to the plan we vote on today without penalty.

I have visited with VA officials in my district to discuss the problem of lengthening waiting lists. At the Lebanon VA hospital, I was told that nearly 1,800 veterans still wait to be seen by a doctor. Of those waiting, 65 percent are category seven and most likely waiting to get assistance with medication. I commended the caring individuals who run that acclaimed facility for providing outstanding healthcare. The Lebanon VA hospital has, in fact, received the highest patient satisfaction scores of all VA medical centers across the Nation. But I had to agree with them that we do not want to see these quality institutions simply turned into pharmacies. Furthermore, we do not want to see long lines of patients waiting to see a VA doctor when a drug plan that reduces their drug expenditures would work just as well.

One of the great benefits to come from passage of this prescription drug coverage bill will be the relief provided to veterans and VA hospitals. Vets will be able to choose this new drug coverage plan and opt out of the long lines at VA hospitals. Veterans who need help purchasing their medication will get real relief. Those who are waiting inordinate lengths of time on waiting lists to see a doctor at there local VA hospital may look forward to shorter waits and prompter services. Our veterans deserve no less.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, we need to tell the full truth about veterans and prescription drugs. This administration has raised the co-pay for medications that veterans get at our VA facilities from $2 to $7 per prescription, a $250 increase. That is the fact.

Mr. Speaker, the assets test provided under the Republican plan makes a mockery of one of the key objectives of the Medicare prescription drug benefit, to prevent senior citizens from having to pauperize themselves to get the drugs they need. Think what this means.

It means that a frail elderly woman who qualifies for a handicapped sticker on her car because she cannot walk a short distance cannot keep a car that she cannot be confident will not break down on the highway if she wants to qualify for the assistance she needs to get the drugs her doctor prescribes.

It means that a spouse who has managed to buy a burial plot, a burial plot so that they can lie for eternity next to a husband or wife may have to sell that plot to get the prescription drugs they need to survive. For shame.

Those of you who want to give a death tax elimination for the multi-millionaires in this country have no problem with requiring grandma to give up her burial plot in order to qualify for the assistance under this plan. You ought to be ashamed of yourselves.

Mr. TAUZIN. Mr. Speaker, I yield myself 15 seconds.

That claim is disingenuous. Section 1902 allows the States to waive that means test. There is an additional section, 1115 waivers are also allowed for the States, and they can waive that means test any time they want to.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GREENWOOD), the distinguished chairman of the Subcommittee on Oversight

and Investigations of the Committee of Energy and Commerce.

Mr. GREENWOOD. Mr. Speaker, I do not have a single new thing to say about this issue because it has all been said over and over again. But as I have been sitting listening to the debate for these last 2 hours and looking at it and listening to the howling and the shrieking and the bellowing and the clattering of pans, I could think of nothing more than the ancient times when there was an eclipse; and as the sun was eclipsed the ancients ran out and made some noise.

For decades, the Democrats claimed to be the party that represented and cared for the seniors. They did nothing for the prescription drug benefit. Finally, our plan is eclipsing their stature; and they cannot stand it; and they are bellowing and howling. When the sun comes up tomorrow morning, we will have passed the first prescription drug plan in the history of this program. The howling will silence, and the seniors will have something to be proud of. And I am proud of you, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. TAUZIN) has 10 minutes remaining. The gentleman from Michigan (Mr. DINGELL) has 15 minutes remaining.

Mr. DINGELL. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I would like to speak to the chairman of the committee. He says that the States can waive this requirement. In fact, they can not. The asset test was placed under title 18. The States are not able to waive this requirement under this bill.

Mr. TAUZIN. Mr. Speaker, I will yield myself 15 seconds to indicate again that our information is the States have the power to exercise the waivers under this bill.

Mr. Speaker, how much time is remaining on each side?

The SPEAKER pro tempore. The gentleman from Michigan (Mr. DINGELL) has 14¾ minutes remaining. The gentleman from Louisiana (Mr. TAUZIN) has 9¾ minutes remaining.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, with this bill Congress should be keeping a solemn promise to our seniors. But what the Republicans are doing is giving simply a fig leaf instead.

This proposal covers only about 20 percent of the expenses that seniors will incur for prescription drugs in the next 10 years. Well, the Republicans say we are operating under budget constraints. We cannot afford to pay the 80 percent of the costs that the Democratic alternative would have offered had we been able to offer it. Why? Why do we have these budget constraints? Because their priority is not to give relief to the 40 million Americans who need the relief but to give it to the 500,000 of the very wealthiest Americans who want estate tax relief.

Take a look at this chart. Here is the number of seniors who need this prescription drug plan and need a thorough plan, 35 million. Here is the number of people who will benefit from the Republican estate tax cut that they passed a few weeks ago and that caused the budget constraints which are preventing us from passing a real benefit.

The seniors of America need to know this is why we cannot give grandma and grandpa their drugs. It is not because God came down and gave us these constraints. It is because the Republican caucus gave them to us.

Let me answer one more thing. Mr. STRICKLAND says that grandma and grandpa will not be able to buy their burial plots because of the assets test. That is under Medicare. That cannot be waived under title 18 by the State. It is nonwaivable.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from New York (Mr. ENGEL.)

Mr. ENGEL. Mr. Speaker, I thank the ranking member for yielding me time.

The fact of the matter is that the bill that we are debating today is inadequate because there is inadequate funding for the bill; and the reason there is inadequate funding for the bill is, as the previous speaker pointed out, all the money has been used up with tax relief for the very wealthy in this country, $1.6 trillion worth of tax relief for the very wealthy people in the country. So, of course, when it comes to a prescription drug benefit we do not have enough money to provide a real meaningful plan.

We would like to debate the Democratic bill along with the Republican bill here, but we were denied the opportunity. So we do not have the ability to show why our plan is better.

The fact of the matter is, our plan is better. It will cover more seniors. It will give an entitlement under the Medicare program which is really what seniors want.

The bill we are debating today does not provide any real guaranteed benefit and simply, in my opinion, lays the groundwork to eventually privatize Medicare. The bill does not contain the entitlement to a defined benefits package as provided in the rest of the Medicare program. It only promises that seniors can shop for some kind of coverage undefined either through private insurance plans or Medicare HMOs. The bill does not contain, again, any defined premium or assurances that prescription drugs will be affordable; and it will cover less, and listen to this, it will cover less than one-fifth of the estimated drug costs of Medicare beneficiaries over the next 10 years. There is a large gap in the coverage.

Seniors who needs more than $2,000 worth of the drugs in the calendar year must pay for 100 percent of their drugs until they reach $3,700. So what we are seeing here is a woefully inadequate bill, and it is an indication where sometimes when you have something it is worse than having nothing.

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

Mr. Speaker, this bill that has been described as so terrible will give to the State of New York $4.5 billion of Medicaid savings. It will cover 51 percent of New York seniors with subsidized premiums paid for by the government and will provide safety net hospitals in New York with nearly 90 million new dollars. What a terrible bill.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BARTON), the distinguished chairman of the Subcommittee on Energy and Air Quality of the Committee on Energy and Commerce.

Mr. BARTON of Texas. Mr. Speaker, I want to thank my distinguished chairman and simply tell him I am glad to be on the floor backing him up, and I look forward to tomorrow delivering one of his famous cookbooks to one of my dearest friends down in Texas who has indicated to me you need to be backed up tonight with great, great enthusiasm.

I would like to tell my good Democratic friends that I agree with them on one point, and that is the fact that the rule should have allowed you to offer your substitute. I think it would have been a neat trick to have almost to a person voted against an increase in the debt ceiling of $450 billion and then turn right around and voted for a $1 trillion expansion of a brand new entitlement program 2 hours later.

□ 0100

I think this is a good bill. The provider part of it is almost universally supported. I think the prescription drug benefit is a good start. I think it could be improved.

I would like at some point in time to have the ability to offer the additional option of a prescription drug savings account. Many in my district, over two-thirds of the seniors that I have talked to, have said that they would probably opt for some sort of a drug savings account if they were given that option, and I hope that later this year we could do that.

This bill that is before us for over half of the seniors in this country would pay nothing for prescription drugs except a small copayment for the specific drug that they had to use, and I would point out that prescription drugs for most of our seniors are not of a catastrophic nature. They are of a chronic nature. They are to treat heart disease or to treat high blood pressure or cholesterol. They are something they have to take to have a lifestyle that we want them to have.

So I think my idea of a prescription drug savings account would give them a lot of options to do that, and again, I hope that we have the opportunity to offer that at some point in time.

To start the ball rolling, I agree that this bill is a good start and hope we will vote for it later this evening.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank the ranking member for yielding time to me; and, Mr. Speaker, for seniors in my district, there is no issue more important than prescription drug coverage, but the bill before us will not offer my seniors what they need.

First, it entices insurance companies to offer the drug coverage plans. In fact, it gives them the money without any guarantee of a benefit for seniors. Medicare+Choice has shown us that just relying on private insurance companies does not work.

Second, under the majority's proposal, as a senior's drug costs increase, their benefits decrease. In fact, once a senior's costs exceed $2,000, a senior has to spend another $2,900 on their medications before they will get any help.

This chart here, the GOP plan, shows a calendar for seniors. Many seniors in my district pay $400 a month. This senior paying $400 a month will get no benefit during the first month while he is paying his deductible; but then he will get a benefit, February, March, April and May. Unfortunately, then he reaches that $2,000. No more benefit for this senior for the entire rest of the month, and we call this is a drug benefit for our seniors? This is the plan we are voting on tonight because we have no alternative.

We are not allowed to bring a plan that our side has developed that would offer affordable, reliable prescription drug coverage for all under Medicare. For our $25 premium, $100 deductible, seniors would get 80 percent coverage of all their medications. This person during this time of having no coverage is not allowed to rely on a church who wants to step to their aid or family members or if they have a pension plan because of their services, they cannot use that.

This plan is the one that we must vote ''yes'' or ''no'' on tonight. We do have many alternatives. The one we wanted to put up would be a good and fair plan. No opportunity to do that because the majority is so afraid that they will lose the opportunity to do the things that they know in their hearts they should do for this Greatest Generation. We owe our seniors a better plan than this one.

Mr. TAUZIN. Mr. Speaker, would the Chair again advise us how much time remains on each side?

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Louisiana (Mr. TAUZIN) has 7½ minutes remaining. The gentleman from Michigan (Mr. DINGELL) has 9¾ minutes remaining.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Speaker, I thank the chairman for yielding me the time.

We have heard a lot tonight about facts and figures and partisan rhetoric and attacks and misrepresentations. Some of our colleagues on the other side of the aisle earlier tonight suggested that we talk about or focus on senior women. I would like to do that for a second, one in particular, my mother.

My mother, Roberta, was diagnosed almost 5 years ago with cancer, deadly form of cancer, should have been dead by now. She is alive today, thank God, because she has had access to good medical care and prescription drugs that have saved her life. Why is that so important? Because without it, she never would have met her grandkids. Our kids, 3 and 2 years old, she never would have met them. Thank God she had access to these life-changing, life-saving products, because of scientists and researchers and companies who invest hundreds of millions of dollars, indeed billions of dollars, to find the miracle cures of tomorrow.

We have to make these miracle products affordable and accessible to everyone because our seniors are too important to let this opportunity sneak by. Our grandmothers want to meet their grandkids. Let us make it happen. Pass this plan tonight.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, anyone who has been half awake for the last 2 years knows that for Republicans tax cuts for the wealthy are far more important than prescription drugs for seniors. In the room upstairs, Republicans can call Medicare a Soviet-style program; but down here on television, they say they are providing a Medicare benefit.

The Republican plan relies on private, stand-alone prescription drug insurance plans. They do not even exist now, and they probably never will. No guaranteed benefits, no guaranteed premium, no guaranteed reduction in price. Their plan is an empty promise.

We have been asked where is our plan. The truth is my colleagues will not let us vote on it. Why? Because they know that a real Medicare benefit would reduce prescription drug prices. That is not acceptable to the pharmaceutical companies, so it is not part of the Republican bill.

Many Americans may be confused by this debate. All these numbers, estimates, projections. Just remember that Republicans get most of the money from HMOs and pharmaceutical companies. This bill is great for them, but it is a fraud on America's seniors.

Mr. TAUZIN. Mr. Speaker, I am pleased to advise the great citizen of Maine that their citizens, their seniors, 40 percent of them will get subsidized and mostly fully subsidized premium coverage under this bill.

Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Tennessee (Mr. BRYANT), a member of the Committee on Energy and Commerce.

Mr. BRYANT. Mr. Speaker, I thank the chairman for yielding me the time, and I thank the chairman for making a priority of our committee to bring forth this first prescription drug benefit that is going to be available to people eligible for Medicare.

I think it is a good bill. It offers low-cost drugs. I think it guarantees insurance coverage, and it is all done in a fiscally responsible way. It fits within our budget, and I thank again the chairman for doing this.

I know our folks in Tennessee, we have about 700,000 senior citizens, and about 45 percent of those senior citizens will be eligible for virtually cost-free drugs under this plan; and I know those citizens in Tennessee that are dual eligible, that are covered, are qualified both in Medicare and Medicaid, that would result in, when this program picks up those people from the State, in a savings of about $565 million over the years 2005 to 2012.

So, Mr. Speaker, again I commend the gentleman from Louisiana (Mr. TAUZIN) for bringing forth this very good bill and making it a priority of this Republican Congress to give us our first-ever prescription drug benefit in the Medicare system outside the hospital.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Illinois (Mr. PHELPS).

Mr. PHELPS. Mr. Speaker, I want to thank the gentleman for what he has done in the leadership in this particular subject that has brought us here tonight.

I rise in opposition to this plan and sadly because the rhetoric I guess tonight comes to an end. After promises from both sides of the aisle and those who have run an election for the last several years who promised to do something on this particular subject, we fall short and it is sad because I wanted to come to this body to have a true, fair debate on subjects of great priority like this, not to debate at 1:00 a.m. in the morning where we hide things from people, to say just one plan is the best plan, it is the only plan. That is not what we are about.

I am not here to promote adversity. I do not want conflicts. I want us to come together in a bipartisan manner to try to solve the very best of all plans, not just say one plan is the only plan, and say, Illinois, that I know that the gentleman is about to quote how many millions of dollars we are going to receive and help, but what could we have received? That is the question. Those people out there, constituents that I represent, will never know until the true light of day is shed on my colleagues' plan, and that is what we intend to do.

They have limited us to debate here tonight, trying to get one side of our plan more clear, under handicap conditions. That is not what we are about.

That is not why we were elected, to have one party or a majority party have the only plan to make it deceptively look like it is a positive plan.

That is why we are here tonight, to debate the best, the most priority issue in the Nation, not in the wee hours in the morning just one plan, but a fair plan for all the best of all plans.

Mr. TAUZIN. Mr. Speaker, I am pleased to let my friend know that the great State of Illinois will get a great fair share of this bill, about $2 billion in Medicaid savings, and about half a million of his senior citizens will get totally free premiums for their Medicare premium drug insurance coverage. That is a pretty good deal, pretty fair.

Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Indiana (Mr. BUYER), a distinguished member of the Committee on Energy and Commerce.

Mr. BUYER. Mr. Speaker, it took me 3 years to redesign the pharmacy benefit of military health delivery system. As the only Member of this body in this Congress to offer a prescription drug bill that has been passed and signed into law, I want to share a few observations.

Number one, I want to thank the gentleman from Hawaii (Mr. ABERCROMBIE) because we worked in a bipartisan fashion, something that has not occurred here.

Secondly, we were able to modernize a program without dulling the cutting edge of new prescription drugs.

Missing from this debate is the celebration of capitalization, a free enterprise system that avails the great minds of the world, the incentives to form at-risk entities to push the bounds of modern medicine and pharmacology to the benefit of our people and the improvements in their quality of life.

Please do not demonize these scientists and those in the medical community. Americans are living longer with many chronic illnesses. Why? Because modern medicine and the best health care system in the world is giving them that chance. Access to these drugs is what is important. That is what the Republican drug plan is going to do.

Please vote for this bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, first of all, this bill tonight, I have listened very carefully. It is a relief act for the insurance industry. That is what it is.

Also, the Republican plan is not a fair plan. It is not going to help all seniors. Think about that. That is the fact. It does not cover them. There is no real guarantee at all, and many of them keep getting up and saying this is the first plan. That is all they want to go out and say, this is the first plan. It does not mean anything except it is the first ever, and it is not worth doodley squat. So they run with that.

So we have got to think of three things. It will not cover all the seniors. Imagine this, seniors having to run around, trying to shop around and find a plan. That is a big hassle for older Americans. They cannot contend with all these various insurance plans that come and go. We do not know how the model is going to work. Those of us who have been around, we know it did not work in 1965; and this is just another part of it. It is not going to work now.

We should be sure tonight to vote against this relief act for the insurance agencies.

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

I am pleased to let my dear friend, the gentlewoman from Florida (Mrs. MEEK), know that the poor seniors in her State, over 1 million of them, will get free insurance drug coverage under this bill. That is 42 percent of her seniors and the State will get $3.1 billion of Medicaid assistance.

Mrs. MEEK of Florida. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I yield to the gentlewoman from Florida for 15 seconds only.

Mrs. MEEK of Florida. Mr. Speaker, I did not say poor seniors. I said all seniors.

Mr. TAUZIN. Mr. Speaker, I am saying all seniors are going to get helped, but the poorest will get totally free insurance coverage.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kentucky (Mr. FLETCHER), a new member of the Committee on Energy and Commerce.

Mr. FLETCHER. Mr. Speaker, again, prescription drugs for our seniors is probably the most pressing health care issue that we face, and I want to thank the chairman of the Committee on Energy and Commerce for his leadership in bringing this to the floor, a plan that is reasonable, responsible and doable, unlike a plan that was brought up in our committee and will be brought up in the recommit motion. That is a plan that scores out at $973 billion with absolutely no way to pay for it.

□ 0115

That means you are either going to have to increase taxes on our children, grandchildren or you are going to have to take it from education, national security, homeland security, or Social Security. Those are the only choices you have.

Let me talk just briefly. Two years ago there was a $303 billion prescription bill plan. Who supported that? Virtually every single Democrat supported that. What happened this year? I think they have had an election year epiphany. All of a sudden, it is an election year; and we need three times as much money for it to be a reasonable plan. Is it not amazing that when we offer a plan that is reasonable, doable, it will be a plan that will provide benefits for every senior?

Let me talk about Kentucky. There are 615,000 Medicare beneficiaries that will receive help with this. Fifty percent of those in Kentucky are at 175 percent of the poverty level or below, which means they will be subsidized. It means $459 million for Kentucky. We are a small State, but $459 million for Kentucky, and those dual eligible for Medicare and Medicaid will get help. We are having trouble meeting our budgetary needs, so this bill is the right kind of a bill. It is a responsible bill, it is a reasonable bill, it is a doable bill, and they thought it was 2 years ago, but now in an election year, no, it is not enough.

I think we need to lay aside election-year politics, pass this thing on a bipartisan basis, and let us do what our seniors need, provide them a prescription drug bill and help for our States.

Mr. BROWN of Ohio. Mr. Speaker, I notice that my friends on the other side of the aisle talk about giving free coverage to poor seniors except for the $2,700 out of pocket they would have to pay under the Republican private insurance plan.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Missouri (Ms. MCCARTHY).

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

Ms. MCCARTHY of Missouri. Mr. Speaker, I am in opposition to the measure before us and in support of the Democrat alternative that was denied.

I rise today in opposition to H.R. 4954, the Medicare Modernization and Prescription Drug Act of 2002. This "Insurance Company Protection Act" will not provide an affordable and dependable benefit for seniors. The Democratic substitute, which is being denied consideration by Republican leadership, provides comprehensive prescription drug coverage and savings to employers.

The "Insurance Company Protection Act" is an effort to privatize Medicare. This bill shifts $68 billion in health care costs onto employers, by designing the benefit so that private plans are required to cover prescription drug costs. As a result of this increase in costs for employers, the Congressional Budget Office (CBO) estimates that one third of seniors in employer sponsored retiree plans will be dropped, leaving three million seniors who currently have employee based retiree coverage owing more for prescription drugs after this law is enacted.

The "Insurance Company Protection Act" threatens our local pharmacies. With myriad medications, seniors rely on their local pharmacists for advice and help in the management of their prescriptions. This legislation does not allow any pharmacy to be applicable for the prescription drug program, breaking many long standing relationships between pharmacist and patient.

Instead of shifting costs onto employers and seniors losing their coverage, the Democratic proposal offers a universal benefit with a $25 a month premium, $100 a year deductible, 80 percent of costs paid by Medicare, and a $2,000 out of pocket limit per beneficiary per year. It provides low income subsidies to ensure that every senior can afford to participate

in the Medicare Prescription Drug Plan. In addition, physicians would have received a true solution to the Medicare payment problems that threaten the program today.

The Rules Committee had an opportunity to produce a bill that provides sufficient drug coverage for our seniors by allowing a vote on the Democratic substitute. Instead, the House will vote on a plan set by industry, the ''Insurance Company Protection Act,'' that provides no entitlement under Medicare, an inadequate and ill defined benefit, and no equality for seniors in different parts of the country. Seniors cannot even be assured that the drugs they are prescribed will be covered, or that they will be able to continue their trusted relationship with their pharmacist. With these provisions, it is not difficult to understand why every senior group opposes the bill before us. I urge my colleagues to vote against the Medicare Modernization and Prescription Drug Act.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Washington State (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, why should the senior citizens of America have to settle with a big gamble about whether they are going to get prescription drugs? Why should they have to gamble that maybe, maybe an insurance company will show up when no insurance companies exist on the face of this planet today to provide this service?

When one thinks about this, the Republican plan does not provide drugs. It provides a pair of dice to roll, and that is not good enough for senior citizens. Now, you do provide them a chance maybe some of them will get prescription drugs, but this generation has taken enough chances. It took chances on Omaha Beach, it took chances on Iwo Jima, and it should not have to have a crapshoot to see whether or not they are going to be able to get prescription drugs, and one would think after the abject failure of Medicare+Choice that you would not place your bets on a horse that has gone lame all over this country time and time again.

Mr. Speaker, we ought to reject this pathetic excuse and pass a real meaningful Medicare plan.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, we have had a lot said on this floor tonight, but what really is going to count is what is said when we get out there talking to those seniors that we are trying to help here tonight.

I traveled all over my district and collected pill bottles from those seniors, and I know how they feel, and they are going to ask some tough questions of us. If this plan passes, they are going to want to know and they are going to hand me that list of medicines they have been prescribed by their doctor and they are going to ask, are these medicines going to be covered under this plan? And if you give them an honest answer, you are going to have to say, I do not know, because you do not know.

They are going to say, how much is the premium going to be for this plan? If you give them an honest answer, you are going to say, I do not know. That is going to depend on what the insurance company that is going to carry this plan is going to charge you.

Then they may look at you and say, well, can I get this plan at my local pharmacy? You know the answer to that one. The answer is no. You are going to have to get it through mail order.

And if you look at them again and they say, this does not sound like too good a program, how do I know that this program is going to be there? The answer is you do not know because those Medicare HMOs have not been there for our seniors.

So I think what we have got to do tonight is be honest with our seniors and tell them we are passing a sham tonight, a sham that means nothing to these seniors, and what we have got to do is pass a real plan, a real Medicare plan for our seniors.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I rise in strong opposition to this bill. The skyrocketing cost of prescription drugs is a bitter pill to swallow, and the Republican leadership's refusal to let us consider the Democratic proposal is simply bad medicine for America's seniors.

My colleagues, last year, I conducted a study which showed that seniors in Westchester County are paying from 57 percent to 128 percent more than their counterparts in six foreign countries for the five drugs most commonly used by seniors in the United States. It also revealed that three medications frequently prescribed to seniors increased in price by at least twice the rate of inflation.

These statistics reveal to us over and over again the depth of the problem, which is growing worse by the day. Clearly, America's seniors deserve more than a hope and a prayer when it comes to ensuring their health and well-being.

The bill under consideration would, unfortunately, not guarantee benefits for seniors. Instead, it would pay subsidies to insurance companies in the hopes that they will establish drug-only insurance plans for Medicare beneficiaries. Under the Democratic plan, which we were not able to really debate this evening, Medicare would provide voluntary prescription drug coverage for all Medicare beneficiaries.

It is simply unconscionable that the Republicans are denying us a vote on the Democratic bill because perhaps they feel their Members will join us in voting for a real prescription drug benefit.

I also note that congressional action on provider payment increase and protections for Medicare-Plus Choice is long overdue.

Let us vote for a real plan. Let us have a real debate. Let us vote down this bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan (Mr. DINGELL), who will explain why the Democratic plan is written for America's seniors and the Republican plan is written by and for America's drug companies.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Michigan (Mr. DINGELL) is recognized for 2½ minutes.

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

Mr. DINGELL. Mr. Speaker, I am Mr. JOHN DINGELL. My dad was the original author of Medicare. He wrote it for and under Harry Truman's guidance and tutelage. It was a great piece of legislation. It took us 10 years to get it enacted into law. I sat in the Chair when we passed it. The Republicans, after years of fighting it, finally came along and supported it because they saw the handwriting on the wall.

I know Medicare, and this fraudulent proposal that is before the House is not Medicare. What it is is a subsidy for the insurance companies. We give a pile of money to the insurance companies that they can spend any way they want.

The counsel of the committee was inquired of by me for about 20 minutes. He could not tell us of any constraints on the insurance companies or any rights of the insured that would be protected under this Republican legislation.

That is why this is bad legislation. The insurance companies can take this money and spend it any doggone way they want, dividends, or they can give it in corporate executive salaries and bonuses. That is why it is a bad bill.

The Democratic bill is a very simple bill. What it does is it says, you pay $25 a month, you get 80 percent of your prescription pharmaceuticals paid for by the government, and you pay 20 percent of the cost yourself. Very simple, very understandable, very plain. No great big donut hole, no disqualifications for having your expenditures counted, and you get your benefits all year round. Not like this sorry mess that my Republican colleagues would foist upon our senior citizens.

This is a bad proposal. This is a bad process. This is a situation where we do not get an honest chance to either offer an amendment or see to it it is properly explained.

But I would note one thing. Every honest senior citizen organization in the United States says this Republican bill is a bad bill, and AARP says it needs significant improvement before they can support it.

We want to give the American senior citizens Social Security in good form, Medicare in proper form, and a Medicare benefit which will take care of their needs for prescription pharmaceuticals when they come. No longer should we have a situation where American senior citizens have to decide whether they are going to pay

their rent or whether they are going to eat or whether they are going to get their prescription pharmaceuticals. That is wrong.

Our bill corrects that. The Republican bill does not. Vote against their bill. Vote for the motion to recommit and my colleagues will serve their constituents well, especially their seniors.

Mr. Speaker, I include for the RECORD a letter written to the gentleman from Louisiana (Mr. TAUZIN) from AARP, which was referred to earlier.

AARP,
June 18, 2002.

Hon. W.J. TAUZIN,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN TAUZIN: Thank you for your initiative to move legislation through the House this year that will address the important need for prescription drug coverage in Medicare. As you know, AARP's top priority is available and affordable prescription drug coverage for all Medicare beneficiaries.

Our members, and virtually all older Americans, need this coverage now. They cannot wait any longer for protection against the increasing costs of prescription drugs.

We are pleased that your bill makes the voluntary prescription drug benefit permanent and maintains the entitlement nature of the Medicare program.

The bill contains other favorable components as well. For the approximately 50 percent of beneficiaries who are estimated to have annual prescription drug costs of $2,000 or less in 2005, the initial level of coinsurance in the bill should be attractive. Likewise, the financial assistance for low-income beneficiaries with drug costs under $2,000 is vitally important.

We also appreciate your efforts to contain drug costs because a Medicare drug benefit alone, without effective cost controls will be difficult to sustain as our growing population of older Americans increases its drug utilization. While we want to ensure that cost containment mechanisms result in meaningful savings, it is critical that these mechanisms do not impede access to needed medications.

More needs to be done to ensure that a final bill provides a benefit of value to our members and a program in which Medicare beneficiaries will enroll. As the process moves forward, the issues of funding adequacy, structure, benefit viability, and other Medicare changes like the home health copay, need to be addressed.

A voluntary drug benefit must attract broad enough participation to avoid the dangers of risk selection. Our research show that beneficiaries assess the value of the benefit by adding up the premium, coinsurance, and deductible to determine if it is a good buy. The existence of a large coverage gap is a strong disincentive to enrollment. More funds are needed to close this gap and protect the viability of the program.

Unfortunately, a substantial amount of the already limited funds allocated for a prescription drug benefit have been diverted to pay for provider reimbursement increases. We believe that providers should be paid fairly for treating Medicare patients, but Medicare beneficiaries have waited long enough for relief from high prescription drug costs. Every dollar allocated to ''givebacks'' package means one dollar less for a Medicare drug benefit. We firmly believe that agreement on an affordable Medicare prescription drug benefit should be reached before Congress considers additional provider reimbursement increases.

Our research also indicates that older Americans are looking for stability and dependability in coverage. Therefore, it is important to ensure that private sector entities will be willing to offer coverage.

AARP's goal is enactment this year of an affordable Medicare drug benefit that is available to all beneficiaries. This bill requires improvements before our members will provide their support. We want to work with you to assure adequate funding and resolve other issues as the process moves forward and before any legislation is enacted into law.

Sincerely,

WILLIAM D. NOVELLI,
Executive Director and CEO.

Mr. TAUZIN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this debate tonight should not be about politics. American seniors have heard all the politics they can stomach. And the AARP said it best in their letter. They said, ''Our members, virtually all older Americans, need this coverage now.'' What coverage were they talking about? They were talking about the coverage in this bill.

Here is a quote from the AARP, and I am sorry my colleagues are in such disagreement with the AARP, but here is their quote. ''We are pleased that your bill makes the voluntary prescription drug benefit permanent and maintains the entitlement nature of the Medicare program.''

Now this is not also about who loves their mother or father the most or their grandparents the most or who is willing to step up to the plate and do what they can to make sure that American citizens in their senior years have prescription drug benefits. This is about whether or not we have a plan that works. We think it does, and the AARP agrees with us.

Now let me make another point. We have heard a lot about the drug companies. I want to give my colleagues a Clinton administration statistic. The Clinton administration estimated that seniors without drug coverage pay 20 percent more for their drugs than anybody else in America with drug coverage. This bill will give seniors drug coverage. It will reduce the cost of their drugs at the expense of the pharmaceuticals.

We had the courage in the Committee on Energy and Commerce to do something our friends on the other side would not do. We got rid of the floor that pharmaceuticals will not negotiate below, and we forced the pharmaceuticals to spend $18 billion more, lowering the cost of drugs by eliminating that floor.

This is a great bill for Americans. This makes for a great savings on the drug bills of moms and dads and grandparents. We ought to vote for it tonight.

Mr. HOYER. Mr. Speaker, This GOP drug bill is nothing but a candy-coated placebo that fails to cure the problems faces by million and millions of senior citizens who are struggling every single month to pay for life-saving prescription drugs.

The American people are just not going to swallow it.

If the FDA approved a drug that was this untested and unreliable, there would be an outcry across this great Nation for immediate congressional investigations.

Three words say it all: It won't work.

This ideological plan—which depends on private insurance drug only policies—even has insurers scratching their heads.

As Bill Gradison, our former Republican colleague in this House and the former head of the Health Insurance Association of America, recently said: ''I'm very skeptical that 'drug only' private plans would work.''

There's no guarantee insurers will offer drug only policies.

There's no guaranteed monthly premium. There's no defined benefit for seniors. There's no guaranteed access to the drugs you need.

The only guarantee in this bill is that it would provide inadequate coverage.

Everyone of us knows that the Republican party really wants to privatize Medicare.

This bill is the first step. A few years ago, the majority leader even told the Chicago Tribune that he ''deeply resents the fact that when I'm 65, I must enroll in Medicare.''

In sharp contrast, Democrats want to create a plan under Medicare that's affordable, guaranteed, universal, and voluntary.

The only argument that our Republican friends can muster against the Democratic plan is cost.

But these are the same folks who voted to give Enron $250 Million, who voted to give a handful of other corporations billions more, who voted to eliminate the estate tax on the wealthiest estates in the country.

Vote against this shameless drug bill.

Let's adopt a plan that gives seniors the drugs they need and deserve.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in opposition to H.R. 4954, the Medicare Modernization and Prescription Drug Act. It's a sad day for seniors all across this country and especially in my congressional district in New Mexico. It is sad because the Republican leadership has decided that the House will only consider their pharmaceutical company-backed Medicare prescription drug benefit program.

The majority does not seem to care about making affordable prescription drugs available to all of our seniors. Instead, they only care about making political capital at the expense, literally, of our low income-seniors. For Congress after Congress, Democrats have called for making affordable prescription drugs available to seniors. And now that the Republicans fear losing their majority, they have brought a bill forward that has been industry-bought and industry-paid for.

The Democrat alternative that we have proposed, and that the majority refuses to allow us to debate, has been bought and paid for by the American people, many who are seniors that have sent us here to represent their interests and not the interests of America's pharmaceutical companies. Our bill which has been endorsed by most senior advocacy groups would charge a $25 monthly premium and a $100 deductible and require co-payments of 20 percent up to $2,000. After that amount, the government would pay all costs. The Democratic plan has no gaps in coverage and low-income seniors are protected under our plan. The majority says it is too expensive.

Why? Because all the money was spent last year on the $1.3 trillion Bush tax cut for the wealthy few.

The Republican proposal is a ridiculous sham that has been introduced to fool our senior citizens into believing that they will finally have a prescription drug plan under Medicare that works. Republican strategists believe that their passage of any drug bill will inoculate their candidates against criticism. Even the spokesman for House Republicans' campaign committee has been quoted in the Washington Post as saying, ''The fact that the House will have passed a prescription-drug bill will take away the Democrats' ammunition, and will make Senate Democrats look worse for failing to pass it.''

Ar you kidding me? This shouldn't be about politics. It should be about policy. Prescription drugs are nothing more than a political game to the majority. Frankly, this is slap in the face to every American senior and not to mention insulting.

My poor constituency in New Mexico cannot afford the outrageous prices of prescription drugs. Many of them drive hundreds of miles across the U.S./Mexico border to buy affordable prescription drugs. Many of them have to go without paying their bills in order to afford prescription drugs. Many of them have to forgo buying groceries, clothes, and other basic necessities to afford prescription drugs.

We owe it to America's seniors to do the right thing and propose a plan that offers a real prescription drug benefit. We owe it to America's seniors to be able to debate a plan that offers real prescription drug benefits. We owe it to American's seniors to debate our bill.

Our seniors deserve a prescription drug plan that works with a defined benefit plan, guaranteed premium and access, and protection for low-income seniors. The democratic alternative is the real prescription drug plan and not hoax on low-income seniors.

I urge my colleagues to vote ''no'' on H.R. 4954. Send this back and give us a fair vote on a real prescription drug plan.

Mr. OWENS. Mr. Speaker, H.R. 4954, the Republican Pharmaceutical Industry Protection Act, is a cruel and unusual joke perpetrated against the senior citizens of America. The Republicans are preoccupied with the goal of the prescription drug manufacturers which is to maintain the highest possible prices and profits in America. Without operating at a loss in foreign markets, these drug companies sell their products at much lower prices. They sell at lower prices because foreign government negotiators refuse to pay exorbitant prices. Insults are added to injuries when Americans are forced to pay the highest prices for drugs which our Government often play a major role in research and development. A workable and simple plan offering the necessary benefits to seniors in need can be set in motion immediately. First, lower the cost of prescription drugs by following the principles and procedures set forth in my bill, H.R. 4772, the Pharmaceutical Products Price Equity Act which I first introduced on September 25, 2000. This bill ensures that pharmaceutical companies cannot charge more the 6 percent above the average retail price of prescription drugs sold in the 5 most industrialized, free-market countries. This will ensure that pharmaceutical companies charge consumers within the U.S. prescription drug prices that are comparable to other nations.

The second simple step is to follow the program of implementation as stated in the Democratic Plan. No new HMO and insurance bureaucracy is necessary. Let the Prescription Drug Benefit Plan be an extension of the of the Medicare program. Instead of offering a cruel and unusual joke, this Congress should unite behind a plan which relieves the very desperate needs of many of our senior citizens.

Mr. FILNER. Mr. Speaker and colleagues, I rise today to protest the half-baked drug scheme that the GOP has jammed down Congress' throat. I find it a particular affront to our system of democracy that the Republicans blocked consideration of a plan that would easily cover all seniors.

I join hundreds of my colleagues in opposing a GOP scheme that would force America's seniors and future seniors to rely on private insurance companies or HMOs for prescription drug coverage. GOP supporters of the scheme received hundreds of thousands of dollars in campaign contributions from pharmaceutical companies and HMOs.

America's seniors deserve affordable prescription drug coverage. They should not have to make the preposterous choice between prescription drugs and paying their rent.

The Democratic bill—on which GOP leaders refused to allow a vote—would have guaranteed voluntary prescription coverage for all Medicare beneficiaries. Medicare is available to the vast majority of people over 65. It would have a $25 monthly premium and a deductible of $100 per year. After that, beneficiaries would be responsible for just 20 percent of drug costs, with Medicare covering the remaining 80 percent. All costs would be covered after a beneficiary spent $2,000 out-of-pocket.

The Republican bill guarantees no specific benefit and subsidizes insurance companies in the hope they will create private insurance plans. Many HMOs and private insurance would not want to offer coverage under the plan. Those that did would be able devise the coverage and set the premium.

We should not be playing a shell game with something as important as our seniors' health and well-being. The Republican bill leaves our seniors out in the cold.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to urge my colleagues to support a fair and equal prescription drug plan.

Mr. Speaker, as you know, Adam Smith's economic theory of competition over monopoly has worked for our country's economy for nearly 200 years. While competition works for material items, it does not work for social services and human needs such as health care and prescription drugs. If we allow private companies to set their own premiums and encourage competition among the prescription drug plan providers we will not cut costs, nor will we provide seniors with low premiums and co-pays.

As we have seen from health insurance providers, the most affordable insurance plans offer the least amount of coverage, while the most comprehensive plans are the most expensive. This leaves a senior, on a tight monthly budget, with the option of enrolling in a low-cost plan, or no plan at all. Therefore, by voting for this legislation, and allowing these companies to set their own premiums and deductibles, we are not guaranteeing anything to our seniors, and will be leaving the sickest ones, on the tightest budgets behind.

The Democratic plan is simply stated. There will be a $25 premium, $100 deductible, and 20 percent co-pay, and an out-of-pocket limit at $2,000. However, the Republican plan is extremely complicated. Different people will pay different co-pays depending on their total prescription drug costs. And let us not forget the gap in coverage for those who exceed $2,000 in total costs, but do not exceed their out-of-pocket cost of $3,800, all the while continuing to pay their high premiums of $35 per month.

In order to maintain all these different co-pays and to assure that competition is available, this bill would create a new agency called the Medicare Benefits Administration. This would only create more bureaucracy and red tape that is currently driving up the cost of health care in America. Almost 25 percent of the cost of health care is to cover the administrative overhead. We cannot add to this current horrible problem.

Not only is the Republican plan more confusing, but it will cost our seniors more. Let us look at two examples. The first is of individuals with $100 per month in prescription drug costs. Under the Republican plan they would pay $892 a year, but under the Democratic plan they would pay only $620 a year. How about those that have $300 per month in prescription drug costs? Under the Republican plan they would pay $2,892 a year, but under the Democratic plan they would only have to pay $1,100; that is a difference of $1,796 a year.

Mr. Speaker, let me close by saying that the issue of adding prescription drug coverage for Medicare recipients is long over due. But H.R. 4954 is not the answer.

Mr. RAMSTAD. Mr. Speaker, I rise today in strong support of H.R. 4954, the Medicare Modernization and Prescription Drug Act of 2002.

This is truly a monumental day for millions of seniors in America. Congress is finally addressing our greatest generation's need for a prescription drug benefit under Medicare.

Prescription drug coverage is one of the most critical issues facing our Nation. This issue has moral, medical, and economic implications for every single American.

Under this bill, seniors will no longer have to become insolvent just to pay for the prescription drugs they need. We are rescuing seniors from the terrible dilemma of paying for food or life-saving medicines.

The problem is that when the majority of people need prescription drugs most, in the later years of life, the largest insurer of the elderly does not provide prescription drug coverage. As a result, many seniors go without the drugs they need, dilute their prescriptions or forego other basic necessities to purchase vital prescription drugs. This is wrong, Mr. Speaker.

H.R. 4954 not only provides affordable prescription drug coverage, but also strengthens the Medicare system to ensure that doctors are available to treat Medicare patients and hospitals can keep their doors open to Medicare beneficiaries.

Mr. Speaker, our seniors need and deserve a Medicare system that reflects the advances in medicine that have occurred in the past 37 years since Medicare began in 1965. They also deserve prescription drug coverage under Medicare.

The Medicare Modernization and Prescription Drug Act provides a prescription drug

benefit to all seniors and reforms irrational payments to doctors, hospitals, and nursing homes. The bill also strengthens the long-term financial condition of the Medicare program.

All Medicare beneficiaries are eligible for this prescription drug coverage, and seniors will save nearly 30 percent, according to the Congressional Budget Office.

Mr. Speaker, I urge my colleagues to pass this critical legislation because the seniors of America deserve a prescription drug benefit and a modernized Medicare system.

Ms. HARMAN. Mr. Speaker, tonight we are engaged in a partisan debate on what should be a bipartisan issue.

Reforming Medicare to ensure access to prescription drugs is one of the most important things we could do this year. Seniors have been promised this benefit by both parties during the past two Congresses.

Rather than engage in constructive debate, the Republican leadership has introduced a bill that does not get the job done under a rule for debate designed to prevent the consideration of any alternatives.

I intend to vote against the Republican bill because it fails to provide genuine, reliable drug coverage for seniors.

The Republican bill is confusing and unworkable. It requires seniors pay different amount in co-payments depending on how much they spend on prescription drugs overall. In fact, its benefits are likely so meager that only the sickest seniors would want to enroll—a recipe for bankruptcy of the system.

The Republican bill does not ensure discounts on all the drugs seniors need. Not only does it offer no guarantee that private plans will cover all the prescriptions seniors need, but because of high cost-sharing and premiums, it will cover only 20 percent of the average senior's drug costs in a year.

The Republican bill has a large gap in coverage. It offers seniors no assistance on drug costs between $2,000 and $3,700. That means that nearly half of all seniors will receive no coverage of their prescriptions for part of the year, even though they continue to pay premiums.

A Medicare prescription drug benefit must be affordable for both senior citizens and the federal government. A plan with high premiums and deductibles—or large gaps in coverage—won't help the seniors who need it most.

I believe that a Medicare drug benefit should achieve the following goals, and I am eager to work with my colleagues to achieve them:

(1) Help those who need it most first. We need to provide genuine and immediate assistance to low-income seniors and seniors who do not currently have drug coverage.

(2) Provide relief from the high and escalating cost of prescription drugs. Prescription drugs cost more in the United States than in any other nation in the world. Medicare should have the ability to negotiate lower prices for senior citizens as part of a drug benefit.

(3) Encourage new disease management techniques and innovation in the delivery of care. Medicare needs to catch up with the private sector in focusing on preventive care and the treatment of chronic conditions. Improving Medicare's coverage on these fronts will improve seniors' lives—and reduce their health care costs as well.

I hope we will be able to work in a bipartisan manner in the coming months to keep our promises to seniors and enact a fiscally responsible, meaningful law to include prescription drugs under Medicare.

Mr. WATTS of Oklahoma. Mr. Speaker, this House stepped up to the plate in March and set aside three hundred and fifty billion dollars in our budget for prescription drug coverage. What was in the Democrat budget proposal for senior citizens? Well, nothing. They didn't bother to offer a budget.

But the absence of action did not prevent the other party from criticism and condemnation. It's always easy to yell and scream when you have nothing to offer.

The plan before the House today is one that will lower the cost of prescription drugs and help seniors get the life-saving medicine they need. It is practical, realistic, and supported by the President.

The Medicare Modernization and Prescription Drug Act of 2002 is the right remedy for a national problem. In fact, the Department of Health and Human Services recently released a report that stated: ''The House Republican plan would provide real relief for seniors and disabled Americans: those who now pay full retail prices would typically see the costs of each prescription cut by 60 to 85 percent, and their overall out-of-pocket drug costs would fall by as much as 70 percent—in exchange for a stable and affordable premium starting at thirty-four dollars per month.''

The Democrat plan is a prescription for higher drug costs, enriching drug companies and fiscal disaster. It is an election year gimmick that will cost over eight hundred billion dollars over ten years and lead to higher drug prices and government price controls.

The Republican plan lowers drug costs, guarantees coverage and gives seniors choices. Seniors would be able to pick the plan of their choice—because one size does not fit all. Competition will drive down costs.

Mr. Speaker, no senior should have to decide between buying food and buying medicine. I urge my colleagues to support this legislation to give seniors the life-saving drugs they need and the peace of mind they deserve.

Mr. BLUMENAUER. Mr. Speaker, the pattern denying opportunity for full debate and reasonable alternatives continues as we deal with prescription drug benefits for our Nation's seniors. The House will not be permitted to vote on the Democratic prescription alternative. Instead, we will only be allowed to consider the Republican bill, which does not provide a guaranteed drug benefit, instead offering only an HMO-style managed-drugs plan for some. Medicare was created in 1965 because most elderly people could not afford to buy expensive health insurance on the private market. Most still cannot, and we as a Congress should not in fairness impose this flawed plan on seniors.

Especially important to Oregon seniors are the regional inequities that already exist in Medicare, and that the Republican bill would allow to grow. Medicare already punishes Oregon for its size and efficiency with a Medicare reimbursement rate that is 66 percent of the national average rate per enrollee. As a result, Oregon seniors lose more than ¾ of a billion dollars every year. That represents approximately $1,660 per enrollee that ought to be going to medical care and services. We cannot tell how much we will lose under the bill before us today.

Their bill allows many different insurance companies to deal with seniors differently from city to city, and state to state. A senior in Oregon might pay significantly more than someone in Louisiana for the same, or even a reduced benefit. All seniors paid their taxes, and they all deserve an equal benefit. Rural areas and western states have had enough of this regional healthcare discrimination!

Choice is illusory in the Republican bill because the plans they propose do not exist and there is no assurance that insurance companies will ever offer these plans.

The Democratic bill, by comparison, is simple and fair. All beneficiaries will receive the same benefits, the same low $25 a month premiums, a lower $2,000 out-of-pocket limit, with any pharmacy they choose—wherever they live.

Furthermore, the Democratic alternative allows the Secretary to use collective purchasing powers on behalf of 40 million beneficiaries to negotiate lower prices, as he did getting Cipro, the antibiotic used for Anthrax, in the Fall of 2001. The Republican bill has no such provision. I support the plan that helps seniors, Medicare contractors, and is fair to the taxpayers.

Mr. STRICKLAND. Mr. Speaker, the Republican prescription drug bill is a sham, and the unfair rule that brings it to the floor exposed this partisan and shameful process for what it is—a political masquerade designed to convince Americans that we have answered the plea to add a prescription drug benefit to Medicare. Make no mistake, we fall far short of that goal today. I am appalled that the Republican leadership is not willing to allow the American people the decency of comparing the bill before us to a substitute that would provide a real drug benefit for Medicare beneficiaries. This limited debate available to us speaks volumes about the quality of the proposal before us today and its lack of a meaningful prescription drug benefit for the seniors.

The Republican sham prescription drug plan would not provide a guaranteed adequate prescription drug benefit for seniors. The coverage outlined in the bill isn't the kind of coverage most Americans think of when the need for prescription drug coverage for seniors. Coverage if 80/20 only through the first $1,000, when coverage drops to 50/50. And then there is a huge gap in coverage between $2,000, when the initial benefits run out, and $3,700, when catastrophic coverage finally begins. A beneficiary will receive zero benefits between $2,000 and $3,800 in spending, even though she will continue to pay the $35 monthly premium.

Perhaps even worse, the bill take the first step toward privitizing Medicare by contracting this new drug benefit out to private insurance plans. In so doing, premiums, deductibles, and copayments will vary across the country—so a senior who lives in Florida will likely pay a different premium than one of my constituents in Ohio. In addition, coverage under the bill we are considering today will be unstable because plans will be able to pull out from an area when they decide it doesn't fit their business plan. Where, then do our seniors turn for prescription drug coverage? The experience of Medicare+Choice illustrates this concern: there were Medicare+Choice HMOs in my district, but every single one left. Thankfully, those seniors who did switch to an M+C plan had traditional Medicare to fall back on. This

won't be the case for prescription drugs if we pass the Republican drug plan. Instead, seniors will be left without any drug plan at all if and when the private insurers leave the area.

The Democrats' prescription drug plan would provide quality, guaranteed help for seniors. Unlike the Republican plan, the Democrats' proposal would create a prescription drug benefit that *is* part of Medicare, thus avoiding instability or variation in premiums that occur depending on where the beneficiary happens to live. In addition, the Democrats' plan provides much more help for seniors: there is no gap in coverage, catastrophic coverage would begin at $2,000 rather than 3,800, and the monthly premium would be $25. The unfair rule under which we debate this incredibly important issue means that Americans won't get to hear this comparison in detail or see how it fares in a vote. This is exactly what the Republicans want because they know their proposal can't compete with the Democrats' concrete plan, which has been endorsed by a litany of groups, including the Alliance of Retired Persons, the AARP, the AFL–CIO, AFSCME, The American Federation of Teachers, the Center for Medicare Advocacy, Families USA, the National Committee to Preserve Social Security, and Medicare, the National Council on the Aging, the National Partnership for Women and Families, and the National Senior Citizens Law Center.

Some of my colleagues will contend that the difference between our plan and theirs is the cost. They will say that the Democrats' are fiscally irresponsible and that our plan breaks the bank. On this point, I stand firm. It is a fact that this Congress has chosen to give huge tax breaks to the wealthy. The President told us we could do both: he said we could enact nearly $2 trillion in tax cuts as well as a prescription drug benefit for America's seniors. But Congress chose to pass tax cuts for the wealthy, and we have chosen not to enact a real prescription drug benefit for seniors. If the choice is between enacting a real prescription drug benefit and giving tax breaks to the wealthy and corporations, then I am proud to choose to stand on the side of America's seniors.

The rule also means that I won't be able to vote for a bill including many commendable provisions that have clear bipartisan support. This year, doctors were hit with a 5.4 percent cut in their Medicare reimbursement, hospitals are struggling with decreases in Medicaid disproportionate share hospital (DSH) funding and shortages in other payments, home health agencies are facing a 15 percent cut in reimbursement, and most Medicare providers are struggling with an increasingly difficult regulatory burden.

Doctors and hospitals in my district provide invaluable care to Medicare and Medicaid recipients, and I hope they know that I support fixing all of these problems. I hope they do not interpret my no vote on this bill as a vote against the compromises that have been reached to address these problems. I recognize that our failure to fix these could seriously threaten the quality of care seniors and the disabled receive, and I cannot overstate my determination to continue working with my colleagues on both sides of the aisle to enact these important solutions. We have, in some cases, already done this. For example, last year, the House passed a Medicare regulatory reform package that is now also included in this bill. And even though I support a permanent fix to the formula used to calculate the physician update in Medicare, I have worked with my colleagues to reach a temporary compromise that is included in this bill. I support these and other provisions that will go a long way to ensuring providers have the resources they need to continue to offer quality care for seniors. Therefore, it is with regret that I cannot support the bill that includes many of these solutions, and I will continue to work for their enactment this year.

I would like for all Americans to understand that the rule bringing this bill to the floor today undermines their ability to hear a full and open debate about developing a prescription drug plan for our seniors. It is shameful that politics is getting in the way of a healthy debate on the addition of a prescription drug benefit to Medicare. And it is also shameful that politics is interfering in the needed changes in Medicare reimbursements that will ensure beneficiaries continue to receive quality care. This is no way to develop thoughtful, reasonable, balanced legislation that will best serve the nation. Our seniors deserve much better.

Mr. WICKER. Mr. Speaker, I rise in support of this comprehensive package which will provide needed improvements to the Medicare system. Much of the debate on this legislation has centered on the need to add a prescription drug component to Medicare. I agree with this goal, and I support the responsible proposal put forth by the Ways and Means and Commerce Committees. The practice of medicine has significantly changed since the Medicare program was created in the 1960s, and the role of prescription drugs has dramatically increased. It is time we reform the Medicare program to reflect changing times.

However, I want to focus on other, very important parts of this legislation related to reimbursements for providers, especially those in rural America. This legislation provides a lifeline for rural America.

In my conversations with doctors, hospital administrators, and community leaders throughout Mississippi, a common concern is the decreasing ability to provide access to quality care in rural areas. The jobs of rural health care professionals are made harder by inequities in Medicare reimbursement rates between rural and urban areas. This bill goes a long way in correcting this problem by increasing the standardized amount for hospital reimbursement in small cities and rural areas to the level of urban areas in a two step process over the next 2 fiscal years. This is in addition to an increase in the market basket adjustment that all hospitals—urban, suburban, and rural—will receive.

The level of the standardized amount is especially important because this is the base with which Medicare starts when establishing reimbursement rates for specific services. Equalizing the standardized amount reduces the difference in payments caused by other parts of the Medicare reimbursement formula. But by putting urban and rural hospitals on the same footing at the beginning of the reimbursement formula, rural hospitals will benefit for years to come as changes are made to any part of the reimbursement system. This major improvement for rural hospitals will be fully implemented in just 2 years.

Other aspects of this bill provide additional benefits for home health agencies and critical access hospitals in rural America. The threat of a 15 percent reduction for home health services has been eased in recent years as Congress has continually delayed the planned reduction. This bill will eliminate the threat by permanently repealing the 15 percent cut, allowing home health agencies to adequately prepare their financial future. Critical access hospitals are increasingly an attractive option for rural communities that would otherwise be without health care service. By improving the rules and regulations for critical access hospitals, this legislation provides more flexibility in operations and in attracting physicians to medically underserved areas.

I am also pleased this legislation includes a three site hospice pilot project which is based upon H.R. 3270, a bill which I introduced in an effort to improve options for hospice care in rural areas. I believe the current 80 percent out-patient requirement makes it economically difficult to provide inpatient hospice care in rural areas because of smaller patient populations. It is my hope that this pilot project will validate the worth of our proposal and lead to an expansion of this specialized care to rural areas across the Nation.

Mr. Speaker, this is a good bill which will improve access to quality health care, be it for prescription drugs, or care in a hospital, home health agency, or hospice. I urge support for this legislation.

Mr. SIMMONS. Mr. Speaker, in my 18 months in Congress, through the many town hall meetings, letters, e-mails and phone calls, I consistently hear the same concern from people of eastern Connecticut—the rising cost of prescription drugs.

We all heard about seniors who have cut their medication in half because they can't afford to take their entire prescription or a senior who has to choose between buying food and buying their medication. We see seniors who are confronted with this choice at supermarkets everyday. We need to lower the cost of prescription drugs for our seniors now.

This concern is not perceived, but very real. The non-partisan Congressional Budget Office estimated that in 1999, nearly 90 percent of Medicare beneficiaries filled at least one prescription. In 2001, the average Medicare beneficiary pay $1,756 on prescription drugs annually, filling approximately 22 prescriptions in that year.

Next month, Medicare will turn 37 years old. The delivery of health care today is very different from the system of our parents and grandparents and very different from the way we cared for our seniors back in 1965.

I believe Medicare needs to be improved to better reflect these changes and strengthened for the future. If Medicare were being designed today, it would include a prescription drug benefit. Because of the remarkable advances made in prescription drugs, seniors are living longer, with a better quality of life. Unfortunately, the promise of prescription drugs is very hollow for those who cannot afford them.

Twenty-six states—including Connecticut—have already enacted some form of prescription drug assistance program and they are to be prescription drug assistance program and they are to be commended. I have long felt that the Federal Government should partner with states to help provide prescription drug relief to seniors, particularly to low-income seniors who have the greatest need.

Earlier this year, in an effort to provide immediate relief for Connecticut's seniors who

were feeling the financial pinch over paying for their medicine, I introduced ''Immediate Helping Hand'' legislation, which provides more than $48 billion to states to give those who can't afford prescription drugs a ''helping hand.''

My bill would provide Connecticut's ConnPACE program with more than $91 million per year and expand prescription drug coverage to thousands of seniors. My plan was a solid first step—a bridge to provide seniors with immediate assistance until Congress passed a more comprehensive prescription drug benefit through Medicare.

But as of tonight, only 51 or so legislative days remain until Congress adjourns. I've come to realize with the short window of time left, its time to roll up our sleeves and work together on this issue. If Congress really wants to give seniors a prescription drug benefit, then we would need to do it now.

The Ways and Means and the Energy and Commerce Committees have introduced a plan to provide a prescription drug benefit under Medicare that is voluntary and affordable and guarantees prescription drug coverage for all seniors. Our plan gives seniors immediate relief from the rising costs of prescription medications by providing a 30 percent discount off the top of their overall drug bill. While seniors would pay a $35 monthly premium and A $250 annual deductible, our bill provides 80 percent coverage for drug bills between $251 and $1,000 of out of pocket drug expenses and 50 percent coverage for the next $1,000. Finally, our plan provides 100 percent catastrophic coverage for out of pocket drug expenses over $4,500 a year, ensuring that no senior will be forced into bankruptcy because of their prescription medication bill during a long-term, serious illness.

Our plan will lower the cost of prescription drugs now by providing a discount so that seniors can better afford their medications. Our plan will guarantee all senior citizens prescription drug coverage and provide additional assistance to low-income seniors. Our plan will improve Medicare with more choices and more savings and will strengthen Medicare for the future. Our plan is a reasonable solution that provides seniors with upfront savings on the high costs of drugs now as well as guarantee them a drug benefit under Medicare that doesn't sunset and can't be taken away.

Our seniors have worked hard to save for their ''Golden Years.'' Yet the cost of prescription drugs is depleting their savings and jeopardizing their retirement security. Under our plan, seniors will be protected from run-away drug costs.

Our plan is also of particular importance to women. Women have a higher life expectancy than men; yet often have lower incomes in their retirement and face additional costs after their husbands pass on.

Speaker HASTERT asked me to participate in a special Prescription Drug Action Team and I thank him for this opportunity. In this role, I have tried to advance the cause of providing a prescription drug benefit under Medicare by meeting with the President and members of his cabinet; hold outreach meetings with groups such as senior citizen advocates and representatives of pharmacies and drug companies; attend listening sessions at local senior centers, such as Rose City Senior Center in Norwich and the Colchester Seniors Center, and pharmacies; and participate in bipartisan discussions with other Members of Congress to find lawmakers with the same goals who will work with me to produce a plan that will help provide real relief to seniors in Connecticut as well as the rest of the country.

Our seniors should not be forced to scrimp on food and shelter just to be able to afford their medicine. Older Americans deserve more savings and more choice when they fill their prescriptions, and I hope Democrats and Republicans will join together now to see that they receive meaningful prescription drug coverage.

To delay is to deny. Lets get a prescription drug benefit signed into law now.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to speak out against H.R. 4954, what should have been called the Republican Insurance Protection Act.

When medical students become doctors, they take an oath written by Hippocrates, a great Greek philosopher and naturalist, in the year 400 BC. The underlying spirit of the Hippocratic Oath, is that when someone needs your help, when they trust you to do the right thing to improve their health, the number one priority is to do not harm.

As we design a system to get the much-needed medications to our Nation's seniors and disabled citizens on Medicare, we must keep the spirit of the Hippocratic oath in mind. These folks need our help, we have promised them that we would help them get the health care they need, and they trust us to keep that promise.

The Republican plan to privatize and compromise Medicare would be a step in the wrong direction. It is a gift to insurance companies and the pharmaceuticals industry, but does nothing for most of our seniors. If it passes, Hippocrates will probably be turning over in his grave.

Let's look at some numbers:

Let's consider one senior, she could be your mother or grandmother. She could be on a fixed income, and her doctor has decided she needs $500 per month in prescription medications to live comfortably. Not only is she carrying a huge financial burden, but she is sick, and from talking to our constituents at home, we all know the frustration and even depression that can accompany long-term illness.

She is a member of the greatest generation, as they have been called, that generation that worked hard to give us the unprecedented prosperity and security we all have enjoyed over the past decades, and now she needs our help.

And what does the Insurance Protection Act offer her?

As the year starts, so do her bills. Her out of pocket costs rise rapidly throughout the year—$1,000, $2,000, $3,000, about $4,000, because even if she hits the catastrophic limit, she is still paying premiums that add to her burden.

And what about her benefits? They are almost non-existent for most of the year. She gets a little help at first, but it falls off rapidly. Then, for a big chunk of the year—she gets nothing, as she falls into the Republican gap.

Finally, when she hits catastrophe, her bills get covered. But, most seniors don't ever get there—they just end up stuck in the Republican gap.

These numbers are the best we could calculate last week with the vague plan that we had been presented with. These numbers look bad, but they may be even worse. H.R. 4954 does not guarantee even this low level of benefit. It only offers subsidies to private insurance companies in hopes that they might take care of our seniors even though we don't. Associations of insurance companies have already gone on record stating they probably will not offer the drug-only plans necessary for the Republican plan to function.

The Republican plan puts this sick senior on a roller coaster. Her premiums are not guaranteed. Her deductible is high. She is not assured that she will be able to buy the drugs her doctor prescribes at the pharmacy she trusts. She gets nothing for a big part of the year, even though she keeps paying her premiums.

She gets all of the paperwork and premiums of a big government program—with none of the benefits. This is a gimmick. It is a step in the wrong direction, and it violates the principle of do no harm.

We do not have to take this step backward because, there is a choice. The Democratic alternative provides a continuous stream of aid to all of those who need it. It offers low premiums and guaranteed benefits. Yes it costs more, but it could actually be a bargain. Unlike the Republican plan which does nothing for the vast majority of seniors, the Democratic plan helps all seniors. By harnessing the bargaining power of those 40 million seniors, the Democratic plan will drive down the cost of prescription drugs. Also, new medications, especially preventive medications can save us money in the long run. By keeping people out of hospitals and emergency rooms and off of the surgeon's table, a good prescription drug bill could actually start saving us money.

But most importantly, it is what our seniors deserve. I urge my colleagues to wait for a better alternative, and vote ''no'' today on H.R. 4539, the Insurance Protection Plan.

Mr. SERRANO. Mr. Speaker, I rise in opposition to the bill before us and in strong support of the Democratic alternative, of which I am an original cosponsor.

The Republicans know that the American people demand prescription drug coverage for seniors. But instead of passing a bill to help our seniors, they've chosen to give $350 billion to insurance companies, trusting them to do what's right for seniors.

This bill is a cruel joke. Republicans broke their word—they promised to help seniors and the disabled with a real Medicare prescription drug benefit, and instead passed a pathetic gimmick that will leave seniors holding the bag. This bill isn't a Medicare benefit plan for seniors, it's a Republican benefit plan for corporations.

I am an original cosponsor of a alternative bill that would provide real coverage for our seniors through Medicare. The Democratic plan fulfills our responsibility to provide for those who made this country what it is today. No senior should be forced into poverty to pay for life-saving drugs—and no senior living in poverty should be denied necessary medications.

Our plan would not only provide a meaningful prescription drug benefit, it would allow seniors and individuals with disabilities to go on making the choices that matter. The Republican bill would take choices away, offering coverage through private plans that may not allow seniors to choose their pharmacy, or

their doctor. The only choice left for many seniors would be between purchasing food and purchasing drugs.

The Democratic plan is so good, in fact, that Republicans would not even let it come to a vote. They did not want to admit that their trillion dollar tax cuts for the super-rich don't leave enough money for a real benefit for seniors. But the American people are not so easily fooled. They know that Republicans put the interests of the rich ahead of the interests of seniors.

Our plan would help all Americans. It would bring down the skyrocketing price of prescription drugs, so that giant pharmaceutical companies can't inflate their profits at public expense. Medicare contractors would obtain guaranteed reductions in price, and the Secretary of Health and Human Services would be able to fight back against price gouging, using the collective bargaining power of Medicare's 40-million beneficiaries. It would stop patent abuses, bringing down drug prices for all Americans. The Secretary would also be able to encourage the use of generic drugs, set lower coinsurance for preferred drugs, enhance disease management, and strengthen beneficiary and provider education. The Republican plan would do nothing to reduce the price of prescription drugs. Tax dollars would be used to pay the same inflated prices that seniors pay today.

I urge my colleagues to make good on their promises, to defeat H.R. 4954, and to pass meaningful prescription drug coverage in Medicare for seniors and the disabled.

Mr. HINOJOSA. Mr. Speaker, I rise today in opposition to the Republican prescription drug bill. For years, our seniors have been begging for help to obtain affordable prescription drugs. The bill before us today gives relief to the large drug companies, not our vulnerable seniors.

It forces Medicare patients into multiple private drug plans, undercuts seniors' collective purchasing power, and enables the drug industry to maintain its unjustifiably high prices.

By contrast, the Democratic plan would provide voluntary prescription drug coverage for all Medicare beneficiaries. The plan curbs drug costs by allowing the Secretary to use the collective bargaining power of Medicare's 40 million beneficiaries to negotiate lower drug prices.

But we will not have the opportunity to vote on this sensible plan that is supported by the majority of Americans because the Republican leadership is afraid it would pass.

I urge my colleagues to oppose the sham Republican proposal and say no to the big drug companies. I yield back the balance of my time.

Mr. WEXLER. Mr. Speaker, prescription drug coverage has long been a top priority for a majority of Americans, and as a result, both George Bush and Al Gore pledged during the 2000 Presidential campaign to provide seniors with a comprehensive prescription drug plan and finally put an end to the prescription drug crisis in America. The House Republican leadership avoided this issue for as long as they could, but the day of reckoning arrived, and when it was time for both sides to ante up, the Republicans offered nothing but a sham. Now here we are, preparing to vote on what the Republicans say is a plan that will help seniors pay for prescription drugs. But before we do, I want all my colleagues to know what is really on the table.

Quite simply, the Republican prescription drug plan is a disgrace; it is nothing more than a half-hearted attempt to deliver on an empty promise and provide themselves with election year cover. This will not bring the rising costs of prescription drugs down, it has significant gaps in coverage, and where it does provide coverage, it relies completely on unreliable HMOs and insurance companies to provide it. The Republican plan will get us nowhere and will leave too many seniors with nothing at all. As we look at the Republican proposal, it is clear that while the needs of so many are being neglected, the wants of an influential few are being met.

The Democratic prescription drug bill we have offered will provide real, meaningful, affordable, prescription drug coverage under Medicare. It will allocate $800 billion to ensure that all seniors can afford coverage. There will be no gaps in coverage, and nobody will be force to join an HMO. But regrettably, we can't even debate this bill today. While that is a shame in and of itself, the real tragedy is that we must choose between a horrible bill or no bill at all. But maybe that is what Republicans—who have been raking in campaign contributions from the insurance industry and the pharmaceutical companies who are the only true beneficiaries of the Republican bill—wanted all along.

The bill that I am sponsoring will be affordable for all seniors, will cover any prescription regardless of the brand, and not just cover those on the insurance companies' formularies. Our prescription drug plan will provide seniors substantial savings by using the government's bargaining power to obtain the best prices for Medicare, as currently done for Medicaid and the Veterans Administration. The Republican plan, in contrast, relies on the insurance industry and HMOs to provide the already scant coverage that it offers. The Republicans have disguised their shallow attempt to pay back the pharmaceutical companies and insurance industry for millions in campaign contributions under the title of Medicare Modernization. The real name for this bill should be the Insurance and Pharmaceutical Industry Payback Act.

The criticism that has been offered by Republicans regarding the Democratic bill is that it is unrealistic. That is their argument, simply because they know that the Democratic bill interferes with their $1.3 trillion tax cut. And to add insult to injury, Republicans continue to push for additional billions in tax cuts for the wealthiest Americans, which is more than enough to pay for the more generous Democratic plan. It is shameful that while Republicans pander to the narrow interests they serve, seniors continue to wait for a real solution to the prescription drug crisis.

Mr. KNOLLENBERG. Mr. Speaker, it is simply unacceptable that 13 million seniors do not have prescription drug coverage. Seniors need prescription drug coverage and they need it now.

The legislation before us today provides a real, timely drug benefit while helping ensure the future solvency of the Medicare program. Although much more reform is necessary, the Medicare modernization provisions contained in the bill are a significant step forward in providing long overdue Medicare improvements. If the Medicare system is to remain viable in the future, it is essential that we bring the Medicare program in line with 21st century healthcare advances and expectations.

I support the Medicare Modernization and Prescription Drug Act of 2002 because it creates a prescription drug benefit in Medicare that is affordable, available, and voluntary. It gives people the power to choose the plan that best fits their needs, including protection against high out-of-pocket drug costs that threaten their health and financial security.

This bill guarantees a choice of at least two drug plans in every area of the country, without endangering existing drug coverage that seniors might already have through a former employer. We avoid giving the Federal Government too heavy a hand in controlling drug benefits, ensuring that seniors will not be denied the right to select the coverage that best fits their needs.

Furthermore, the bill will bring the increased competition among health plans that is necessary to reduce drug prices. According to the Department of Health and Human Services, this plan is the only proposal before Congress that would lower drug prices and provide an immediate drug discount of up to 15 percent.

Mr. Speaker, seniors must not have to choose between their medicine and other basics like food and housing. We have a chance to strengthen the Medicare program to guarantee that our children and their children have access to quality health services and prescription drugs when they become eligible for Medicare. Let us take this monumental step and improve Medicare for the future.

Mr. COSTELLO. Mr. Speaker, I rise today in opposition to H.R. 4954 and in support of the Democratic substitute. It is imperative that we provide senior citizens with quality, affordable, and reliable health care. H.R. 4954 does not accomplish these important goals.

I am committed to strengthening and improving Medicare. As the nationwide health insurance program for the elderly, Medicare has provided important protections for millions of Americans over its 37-year history. However, the program continues to face increasing problems. Like so many Americans, I am concerned that the program's structure has failed to keep pace with the changes in the health care system as a whole. When Medicare was created, prescription drug use was limited, with most beneficiaries being treated in hospitals. Today, advances in pharmaceutical research allow doctors to treat seniors on an outpatient basis. Unfortunately, Medicare has not keep up with this change.

As a result, Congress has been actively working to craft a prescription drug benefit for Medicare that is affordable and reliable. Yet, under the Republican bill, the government would pay subsidies to insurance companies to induce them to offer drug coverage. These ''drug only'' insurance plans do not currently exist, and may never exist, and therefore do not offer a guaranteed benefit to our seniors. Beneficiaries would be forced to choose between HMOs and risky private drug-only insurance plans. Further, this legislation merely provides suggestions for standard coverage; private insurers have the freedom to alter premiums which can be much higher, varying from county to county, and year to year. Seniors would not know what to expect from their drug benefit from year to year or how much it would cost.

In addition, H.R. 4954 provides inadequate coverage to Medicare beneficiaries. It would cover less than a quarter of beneficiaries' estimated drug costs over the next 10 years.

Nearly half of all seniors spend over $2,000 annually. This bill would not pay for drug costs between $2,000 and $3,700. Further, this legislation would do nothing to assist low-income beneficiaries. Low-income beneficiaries may have to pay $2 to $5 co-pays and 100 percent of the costs in the coverage gap.

In contrast, the Democratic substitute, had we been able to offer it, offers seniors a real Medicare prescription drug benefit for with relief from the high cost of prescription drug prices. This legislation would lower the costs of drugs for all seniors, would offer an affordable, guaranteed Medicare drug benefit, would ensure seniors coverage of the drugs their doctors prescribe, and would not force seniors into HMOs or private insurance. Beneficiaries would pay a $25 premium per month, a $100 deductible per year, and would receive full coverage after paying $2,000 in out of pocket expenses. In addition, this substitute would help low-income beneficiaries with premium and co-insurance payments. Finally, it would guarantee Medicare beneficiaries the choices that matter: choice of prescription drug, choice of pharmacy, and choice of doctor and hospital.

I support the provider payment adjustments made to hospitals, physicians, and rural communities represented in both H.R. 4954 and the Democratic substitute; however, I cannot in good faith support H.R. 4954 with its unacceptable prescription drug plan.

Mr. Speaker, I am committed to providing a comprehensive benefit that is affordable and dependable for all beneficiaries with no gaps or gimmicks in its coverage. What Congress offers to senior citizens and individuals with disabilities should be no less generous than what Members of Congress and other Federal employees receive. For these reasons, I oppose H.R. 4954. I urge my colleagues to do the same.

Mr. BONILLA. Mr. Speaker, while I support this bill because it provides meaningful prescription drug coverage for America's seniors and implements measures needed to modernize the Medicare system, I rise out of concern for the effects of this bill on pharmacy services. Pharmacists are on the front lines of health care for millions of Americans. Seniors count on their pharmacist for quality medications and medication therapy services. Coverage of prescription drugs should go hand-in-hand with access to quality pharmacy services.

This bill would inhibit the ability of America's seniors to select the pharmacy that best meets their needs. In many of the smaller towns in my district, seniors have established long-standing relationships of trust with their community pharmacists. This bill would force many of these seniors to turn elsewhere for prescription drug services.

Furthermore, this bill allows Pharmacy Benefit Managers to establish restrictive pharmacy networks, preferred formularies, mail order services and inadequate reimbursement rates, severely undermining the future viability of community pharmacies. Prescription drug plan sponsors, not pharmacists or doctors, would determine the selection of medications to be included on formularies. Cost would supercede the medication that is in the best interest of the patient, and community pharmacies would be left struggling to stay in business.

This bill also compromises seniors' access to medication-therapy services. Pharmacists play an important role in reducing medication-related problems. They routinely resolve complex drug interaction problems for seniors who take multiple medications. These problems cost billions of dollars annually and kill hundreds-of-thousands of persons. Medication-therapy services decrease long-term health care costs while increasing safety.

As a conservative, I recognize the need to be fiscally responsible, however we should not allow our efforts to rein in the high cost of prescription drugs to jeopardize the health of our seniors. Taken together, the provisions of this legislation would impose economic hardships that would severely damage pharmacy infrastructure and compromise the health of America's precious seniors.

Thousands of pharmacists have diligently served America's seniors with dedication and excellence. We should not inhibit their ability to continue providing the drugs and services our seniors desperately need.

Mr. PAUL. Mr. Speaker, while there is little debate about the need to update and modernize the Medicare system to allow seniors to use Medicare funds for prescription drugs, there is much debate about the proper means to achieve this end. However, much of that debate is phony, since neither H.R. 4954 or the alternative allow seniors the ability to control their own health care. Instead both plans give a large bureaucracy the power to determine what prescription drugs senior citizens can receive. The only difference is that alternative puts seniors under the control of the federal bureaucy, while H.R. 4954 gives this power to ''private'' health maintenance organizations and insurance companies.

I am pleased that the drafters of H.R. 4954 incorporate regulatory relief legislation, which I have supported in the past, into the bill. This will help relieve some of the tremendous regulatory burden imposed on health care providers by the Federal Government. I am also pleased that H.R. 4954 contains several good provisions addressing the Congressionally-created crisis in rural health and attempting to ensure that physicians are fairly reimbursed by the Medicare system.

However, Mr. Speaker, at the heart of this legislation is a fatally flawed plan that will fail to provide seniors access to the pharmaceuticals of their choice. H.R. 4954 requires seniors to enroll in a prescription benefit management company (PBM), which is the equivalent of an HMO. Under this plan, the PBM will have the authority to determine which pharmaceuticals are available to seniors. Thus, in order to get any help with their prescription drug costs, seniors have to relinquish their ability to choose the type of prescriptions that meet their own individual needs! The inevitable result of this process will be rationing, as PBM bureaucrats attempt to control costs by reducing the reimbursements paid to pharmacists to below-market levels (thus causing pharmacists to refuse to participate in PBM plans), and restricting the type of pharmacies seniors may use in the name of ''cost effectiveness.'' PBM bureaucrats may even go so far as to forbid seniors from using their own money to purchase Medicare-covered pharmaceuticals. I remind my colleagues that today the federal government prohibits seniors from using their own money to obtain health care services which differ from those ''approved'' of by the Medicare bureaucracy!

Since H.R. 4954 extends federal subsidies (and federal regulations) to private insurers, the effects of this program will be felt even by those seniors with private insurance. Thus, H.R. 4954 will in actuality reduce the access of many seniors to the prescription drugs of their choice!

I must express my disappointment that this legislation does nothing to reform the government policies responsible for the skyrocketing costs of prescription drugs. Congress should help all Americans by reforming federal patent laws and FDA policies which provide certain large pharmaceutical companies a government-granted monopoly over pharmaceutical products. Perhaps the most important thing Congress could do to reduce pharmaceutical policies is liberalize the regulations surrounding the reimportation of FDA-approved pharmaceuticals.

As a representative of an area near the Texas-Mexican border, I often hear from angry constituents who cannot purchase inexpensive quality imported pharmaceuticals in their local drug store. Some of these constituents regularly travel to Mexico on their own to purchase pharmaceuticals. It is an outrage that my constituents are being denied the opportunity to benefit from a true free market in pharmaceuticals by their own government.

The alternative suffers from the same flaws, and will have the same (if not worse) negative consequences for seniors as will H.R. 4954. The only difference between the two is that under the alternative, seniors will be denied the choice for pharmaceuticals by bureaucrats at the Center for Medicare and Medicaid Services (CMS) rather than by a federally subsidized PMB bureaucrat.

Mr. Speaker, our seniors deserve better than a ''choice'' between whether a private-or-public sector bureaucrat will control their health care. Meaningful prescription drug legislation should be based on the principles of maximum choice and flexibility for senior citizens. For example, my H.R. 2268 provides seniors the ability to use Medicare dollars to cover the costs of prescription drugs in a manner that increases seniors' control over their own health care.

H.R. 2268 removes the numerical limitations and sunset provisions in the Medicare Medical Savings Accounts (MSA) program. Medicare MSAs consist of a special saving account containing Medicare funds for seniors to use for their routine medical expenses, including prescription drug costs. Unlike the plans contained in H.R. 4504, and the Democratic alternative, Medicare MSAs allow seniors to use Medicare funds to obtain the prescription drugs that fit their unique needs. Medicare MSAs also allow seniors to use Medicare funds for other services not available under traditional Medicare, such as mammograms.

Medicare MSAs will also ensure senior access to a wide variety of health care services by minimizing the role of the federal bureaucracy. As many of my colleagues know, an increasing number of health care providers have withdrawn from the Medicare program because of the paperwork burden and constant interference with their practice by bureaucrats from the Center for Medicare and Medicaid Services. The MSA program frees seniors and providers from this burden, thus making it more likely that quality providers will remain in the Medicare program!

Mr. Speaker, seniors should not be treated like children by the federal government and told what health care services they can and

cannot have. We in Congress have a duty to preserve and protect the Medicare trust fund. We must keep the promise to American's seniors and working Americans, whose taxes finance Medicare, that they will have quality health care in their golden years. However, we also have a duty to make sure that seniors can get the health care that suits their needs, instead of being forced into a cookie cutter program designed by Washington, DC—based bureaucrats! Medicare MSAs are a good first step toward allowing seniors the freedom to control their own health care.

In conclusion, Mr. Speaker, both H.R. 4954 and the alternative force seniors to cede control over what prescription medicines they may receive. The only difference between them is that H.R. 4954 gives federally funded HMO bureaucrats control over seniors prescription drugs, while the alternative gives government functionaries the power to tell seniors what prescription drug they can (and can't) have. Congress can, and must, do better for our Nation's seniors, by rejecting this command-and-control approach. Instead, Congress should give seniors the ability to use Medicare funds to pay for the prescription drugs of their choice by passing my legislation giving all seniors access to Medicare Medicaid Savings Accounts.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to the Republican Party's sham prescription drug benefit proposal. Prescription drugs, especially for our elderly population, are not a luxury but a matter of life or death. Prescripton drug costs in our country are rising nearly 20 percent each year, forcing more and more of our country's parents and grandparents to choose between their medication and other necessities of life such as food. Our Nation's seniors worked hard to make this country strong, many fighting in far-off places to keep us free. They deserve to have health care security.

Unfortunately, the Republican prescription drug plan falls short in providing this security to our seniors. First, the Republican plan covers less than a quarter of the costs seniors will pay for their medication over the next 10 years. Second, under the Republican plan, the premiums and the deductible are so high that most seniors won't be able to afford the plan and as a result will receive no benefits at all. Finally, the Republicans have no universal prescription drug plan. Instead, they leave it to individual insurance companies to develop their own plans. This means seniors will be left on their own to do the research on each plan that will vary in price, benefits, and availability across the country.

This complicated, time-consuming, and expensive process is unfair and unnecessary, and it represents just another step in the Republican Party's effort to privatize Medicare. That is why Democrats have offered a simple, affordable prescription drug plan with a standard benefit and a low deductible. Through the use of collective buying power, the Democratic prescription drug plan actually lowers drug prices for all of Medicare's 40 million beneficiaries. Unfortunately, Republicans did not allow this alternative plan to be presented to the House for a vote. The Republican bill before us is a sham that does little to help our Nation's seniors.

The House must defeat the Republican bill and take the necessary steps to pass the Democratic prescription drug bill that will give all America's seniors the benefits they need and the health care security they deserve.

Ms. BROWN of Florida. Mr. Speakers, it matters who is in charge. This Republican leadership must think the American people are stupid. Last week they raised $30 million dollars in a fund raiser with the drug companies, and this week we have a prescription drug bill on the floor. Now who do you think they wrote this bill for: The seniors they've been promising relief to for 2 years, or the big drug companies that will be funding their elections this fall?

While on a trip back home to Jacksonville in March, I went to the drug store for my grandmother to pick up just one of her prescriptions. I was expecting maybe a $15 co-payment because I knew her insurance plan had drug coverage. The bill was $91 dollars. She had a limit on her coverage, and it had run out. We were 3 months into the year, and she no longer has a drug plan.

My grandmother, and all grandmothers deserve better than this. If the Republicans can take a break from their million dollar drug company fund raisers and constant tax cut bills for their country club friends, maybe we can work on a compromise that will provide our seniors with the relief we have been promising them. My Republican colleagues talk the talk, but they don't walk the walk. The Republican leadership has come up with a privatized drug plan that has been rejected by both the insurance industry and the drug stores as unworkable, and fails to truly help seniors.

This is one more perfect example of why it matters who is in charge.

Mrs. BONO. Mr. Speaker, I rise today to support comprehensive health care improvements for our country. The Medicare Modernization and Prescription Drug Act of 2002 offers a real and immediate benefit to our seniors, while also offering substantive improvements to a Medicare system that will collapse in on itself without out reforms.

Currently the seniors in my district, which represent over one in five of all individuals in California's 44th District, are without prescription drug coverage that is essential to their quality of health. With this legislation, these individuals will receive an affordable option that will become a permanent facet of Medicare for generations to come.

I have had the honor of serving on the Speaker's Prescription Drug Action team, and we have worked hard to address both prescription drug coverage and improvements to the Medicare system. These include helping our doctors continue to better serve Medicare beneficiaries and helping our hospitals to keep their doors open to those who can't afford to meet even basic health care needs. In particular, the Medicaid Disproportionate Share Hospital monies included in this bill are a serious start to helping our public hospitals, including two in my district.

There is still work to be done in properly funding these hospitals that offer such essential services, but this comprehensive legislation is taking a step in the right direction.

One of my constituents recently wrote to me and spoke of the urgency with which we need to provide our seniors with affordable prescription drug coverage. Her message is echoed by thousands of others, and she is correct that we can no longer ignore the urgent need to improve our health care system.

It is urgent because our seniors cannot continue to keep up with rising prescription drug costs. It is urgent because our doctors and hospitals must have the tools to continue to offer quality care. And it is urgent because we can no longer afford to make patchwork fixes to a program that has not received needed improvements since its inception in 1965. It is for these reasons that I rise today in support of The Medicare Modernization and Prescription Drug Act of 2002.

Mr. KIND. Mr. Speaker, providing affordable Medicare prescription drug coverage for our Nation's seniors is one of the most pressing issues facing our country today. Even though the elderly use the most prescriptions, more than 75 percent of seniors on Medicare lack reliable drug coverage. It is time to modernize Medicare to reflect our current health care delivery system. The use of prescription medications is as important today as the use of hospital beds was in 1965 when Medicare was created.

I have heard from a number of seniors in western Wisconsin regarding the problems they have paying for prescription drugs. One woman from Deer Park, Wisconsin, a small town in my district, wrote to me and said:

> My medication is $135.00 per month. Fortunately my husband is not on any medication. If we both were not working part-time, I guess that we would have to make a choice between food and Medication—does one eat to survive or take the medication for a ''long and happy life''?

What is to happen to this couple if the husband falls ill and has high drug costs too?

Seniors without prescription drug coverage often pay the highest prices for their medication. Pharmaceutical companies negotiate prices with their most favored customers, such as HMOs, but seniors without drug coverage do not benefit from these negotiations. Not only do my seniors face price discrimination in their hometowns, but also they can go to Canada and get the same medicine for a substantially cheaper price. On average my constituents would pay about 80 percent less for their drugs in Canada than they do at home in western Wisconsin. That is wrong.

The cost of prescription medicines should not place financial on seniors that would force them to choose between buying drugs and buying food. We need to make prescription medicines affordable and accessible to all of our seniors.

Unfortunately, today's debate is a sham. We will not have the opportunity to discuss this issue in a fair and open process. The majority decided to railroad the debate and silence the minority by not allowing an alternative to be debated and voted upon. Our nation's seniors deserve better. They deserve an open process, but the Republican leadership has failed to deliver this.

The leadership has also failed seniors with their prescription drug proposal. The Republican plan is doomed to fail because the plan relies on health insurance companies to offer drug only polices which they have said they won't offer. If insurance companies won't offer these policies, how will seniors actually obtain prescription drug coverage under the leadership plan?

Every insurance company with whom I have spoken has said that they will not offer a drug-only insurance policy. In fact, during our last debate on this issue, the Health Insurance Association of America, which consists of nearly 300 insurance companies, released a statement claiming, ''These 'drug only' policies represent an empty promise to America's seniors. They are not workable or realistic.''

Why should the insurance companies provide these drug only policies? They are in the business of insuring risk and there is no risk associated with a drug only policy. This single benefit policy will result in adverse risk seleciton—only people with predictably high prescription medicine costs will purchase the plan. This will increase the cost to the insurance companies who in turn will pass the costs on to the beneficiaries through higher premiums.

In addition, providing a drug benefit through private plans could be problematic, specifically for folks living in rural and small communities. There are no requirements as to what has to be covered and the coverage may vary from area to area depending on the plan. Wisconsin may end up on the short end of the stick like we have in the past under Medicare. Another problem is the huge hole in coverage. Once a senior hits $2,000 in drug costs there is no coverage until they spend $3,700 in out-of-pocket expenses. Nearly half of all seniors have drug expenditures over $2,000 and will receive no drug coverage for part of the year. Further, there is no help for low-income seniors to cover their drug costs over $2,000 and before they hit the stop-loss.

We must provide a real solution to the problem of prescription drug coverage for our seniors. The Republican plan falls woefully short. The Democratic proposal, however, heads in the right direction and builds on the current Medicare program. The benefit would include: a $25/month premium; a $100 annual deductible; 20 percent cost-sharing for drug costs; and $2,000 out-of-pocket annual stop-loss. Low-income individuals up to 150 percent of poverty will pay no premium or cost-sharing. The Democratic plan would guarantee a minimum benefit and ensure that those who live in Wisconsin would receive the same benefit as those who live in California or Florida.

This plan is expensive but it would work because of its simplicity. The question about its affordability depends on whether the American people want a meaningful prescription drug program or if they would rather see large tax cuts in the future for the wealthiest Americans.

It is unfortunate that the Republican leadership has squandered an excellent opportunity to try and solve the problem of prescription drug coverage in a bipartisan fashion. Instead they have steam-rolled ahead and presented our Nation's seniors with an unworkable solution to a grave problem. I urge my colleagues to reject this flawed proposal.

Mr. BEREUTER. Mr. Speaker, this Member will vote for H.R. 4954, the Medicare Modernization and Prescription Drug Act of 2002. There are elements in this Medicare reform legislation which improve the access of health care services in rural areas.

For example, not only does this legislation continue an effort to address some of this Member's concerns regarding the significant difference in reimbursement levels for urban and rural health care providers, it would also provide a 3-year fix for the Medicare physician payment formula, resulting in a 6 percent increase in Medicare payments over the next 3 years rather than the 14.2 percent projected cut under current law.

For some time now, this Member has been aggressively pursuing an issue related to the formula used in the Medicare program to reimburse physicians and other health care providers for beneficiaries' medical care. The problem is that it does not accurately measure the cost of providing such services. The program reimburses physicians and other health care providers in a manner that favors urban providers in a manner that favors urban providers over rural providers. Instead, Medicare payment formulas should more accurately compensate physicians and providers who deliver high-quality, cost-effective services to Medicare beneficiaries in all areas of the country.

Accordingly, this Member is pleased that the Medicare Modernization and Prescription Drug Act of 2002 contains a compromise agreement that would establish a floor of 9.985 for the physician work adjuster in 2004 (only), thereby raising all localities with a work adjuster below 9.985 to that level. This change would be dependent upon the outcome of a General Accounting Office (GAO) study and secretarial discretion. The Secretary of the Department of Health and Human Services would determine, after taking into account the GAO report, if there is ''a sound economic rationale for the implementation'' of such a change. If so, the new floor would go into effect. The change would thereby allow 34 Medicare localities across the county, including this Member's home state of Nebraska, to receive a higher reimbursement rate without harming other localities. This language is a modified version of this Member's legislation, the Rural Equity Payment Index Reform Act (H.R. 3569), which is currently co-sponsored on a bipartisan basis by 60 Members of the House. The language included in the House Medicare Modernization and Prescription Drug Act is also a result of efforts by the distinguished gentlelady from New Mexico [Mrs. WILSON], and pushed hard to ensure such language was and the distinguished gentleman from Wisconsin [Mr. BARRETT], who pursued this issue in the House Energy and Commerce Committee. This Member joined his colleagues, especially the gentlelady from New Mexico (Mrs. WILSON), and pushed hard to ensure such language was included in the final Medicare bill brought to the House Floor for consideration today.

Establishing a floor of 0.985 to the Medicare physician work adjuster would translate into approximately a $4 million annual increase in Medicare payments to Nebraska physician and skilled health care professionals in 2004. This is an important first step toward achieving much needed Medicare reform.

This Member is also pleased that the bill would avert a series of projected cuts of nearly 15 percent in Medicare payments. On November 1, 2001, the Centers for Medicare and Medicaid Services (CMS) announces that it would lower payment rates for 2002 under the Medicare Physician Fee Schedule. Estimates indicate that this change would result in a $2.0 billion reduction in payments for 2002.

Reductions of this magnitude were completely unexpected and stemmed from two major factors: the downturn of the economy and the related reduction in the Gross Domestic Product that is used to establish the sustainable growth rate for physician spending, and an error on the part of the CMS in collecting physician payment information. This legislation addresses this serious health care issue.

The Medicare Modernization and Prescription Drug Act of 2002 also takes an important step forward in addressing the unintended consequences of the Balanced Budget Act, as well as improving payments for hospitals, particularly rural hospitals. For example, the bill provides increased payment rates for hospitals in rural areas or in metropolitan areas with a population of less than one million.

Under current law, Medicare pays for inpatient services in acute care hospitals in large urban areas using a standardized payment amount that is 1.6 percent larger than the standardized amount used to reimburse hospitals in rural areas and smaller urban areas. This legislation, over a 2-year period, would increase the standardized amount for hospitals in rural and small urban areas to the standardized amount paid to hospitals in large urban areas. According to the Nebraska Hospital Association, for example, this could mean an additional $6 million annually for hospitals in Nebraska.

Additionally, the bill increases payments to non-teaching rural and urban hospitals in states whose aggregate inpatient operating medical margins are negative for rural hospitals or less than three percent for urban hospitals. The Nebraska Hospital Association estimates that this could result in an additional $8 million annually for Nebraska's hospitals.

This Member will record two concerns about the initiation of any Medicare prescription drug plan and that is, first, the rather extraordinary cost of this new entitlement program which would have to be paid for employers, employees, and the self-employed, recognizing the high probability that these costs will be underestimated in this or any alternative proposals put before the Congress. That is the track record for all past Medicare and Medicaid initiatives.

However, the major concern this Member has is the near certainty that the cost of prescription drugs for Americans not eligible for the proposed Medicare prescription drug benefits will increase because of the Medicare prescription drug coverage offered to eligible senior citizens under this or other proposals. When, for example, Medicaid costs for nursing home care soared, cost restraints were imposed and the operators cost-shifted to the private-pay and insurance-pay residents. The same cost-shifting occurred when cost-restraints had to be established on Medicare costs for hospitalization and health professional fees. It is certain that some cost-shifting will occur in short order when restraints inevitably will be placed on Medicare prescription drug costs. The result will surely be that pharmaceutical costs will be cost-shifted by the drug industry to everyone else in America.

This legislation, in this crucial deficiency, does nothing to restrain pharmaceutical costs and domestic cost-shifting. However, after extensive consultation, House leadership has promised a vote to those of us demanding some method to directly keep Medicare prescription drug benefits of eligible senior citizens from causing prescription drug costs to resultantly increase for other Americans.

One such vote could be on an implementable drug re-importation program of FDA approved drugs for individual, wholesale, or retail uses. Turn loose the American entrepreneurial proclivities on this approach, and it will moderate the outrageously unacceptable level of international cost-shifting that now falls onto the backs of American consumers. Most other developed countries have imposed cost constraints on the prescription drug costs borne by their consumers; therefore, American and foreign-owned pharmaceutical firms are

charging what the market and tolerance of the American people will bear. This legislation thus far does not address this huge problem—ultimately providing Medicare drug benefits to eligible senior citizens will make the cost of prescription drugs more expensive for most Americans directly and indirectly through Medicare deductions from their paychecks and through its effects on their employer's bottom line.

Mr. Speaker, in conclusion, on balance, this Member supports H.R. 4954 because of the progress made in providing better access to quality health care in non-metropolitan areas through the Medicare finance reforms and because of the promised opportunity for a clear opportunity for the House to soon cast votes on legislation which can restrain or lower prescription drug costs for those Americans not eligible for prospective Medicare prescription drug benefits. This Member will support the advancement of H.R. 4954 to a stage where conferees can craft what this Member would hope to be better legislation if the other body passes its version of a Medicare reform and prescription drug bill.

Mr. CHAMBLISS. Mr. Speaker, we need to strengthen, simplify, and improve Medicare and provide prescription drug coverage for all seniors and disabled Americans. It has been entirely too long that seniors have done without substantial help in affording their prescription drugs. I am committed to working hard to pass prescription drug relief for America's seniors.

Tonight we will pass a fiscally responsible bill that allows seniors and disabled Americans to purchase quality and affordable prescription drugs, offers seniors third party buying power, and provides the security of knowing they are protected from catastrophic pharmaceutical bills.

We desperately need this prescription drug plan. Seniors need this plan to finally receive prescription drug coverage they deserve along with greater choice and flexibility. Further, this plan will substantially help nursing facilities, home health agencies, rural hospitals and local doctors provide better health services and ensure quality health care for folks throughout Georgia.

This bill will not force folks into a Federal Government-run, one-size-fits-all prescription drug plan that has too many rules, regulations, and restrictions and that allows Washington bureaucrats to decide what medicines can and can't be prescribed. This plan is voluntary, and protects those seniors who are already satisfied with their current prescription drug benefit by allowing them to stay in the existing program.

With all these benefits, we need to make sure this legislation is friendly to small businesses and our local pharmacies. I have heard from a number of constituents and share their serious concerns that pharmacists may lose access to networks and our seniors will not gain access to benefits at their local pharmacy. Our hometown pharmacies play a critical role in providing health care in our local communities. We need to ensure that they are not put out of business by this legislation and that pharmacists will have the same opportunity to negotiate price reductions and provide discounted drugs to their customers. It is important that pharmacists be involved in the decision making process for these plans and have the same opportunities to deliver lower costs to the consumer. I want our pharmacists to be able to continue giving customers top-notch care, and I hope that as the process moves forward on this important bill, these critical issues will be adequately addressed.

It is no secret that prescription drug costs are an overwhelming burden on the health and financial security of seniors and disabled Americans. Too many senior citizens and disabled Americans face decisions between putting food on their table and being able to afford the prescription drugs they need. In the wealthiest country in the world, our seniors should not be forced to make these decisions or do without medication that would allow them to live longer healthier more enjoyable lives, and I look forward to passing a responsible prescription drug plan that helps America's seniors.

Mr. EVANS. Mr. Speaker, today's seniors increasingly depend on prescription drugs to live healthy lives. But with prescription drug prices skyrocketing, medication is out-of-reach for too many of our Nation's seniors. All too often, we hear of seniors on tight budgets who are forced to choose between medication and their next meal. Congress must ensure that all seniors have access to affordable prescription drug coverage, but the plan that the Republicans have offered falls short. A voluntarily benefit added to Medicare would guarantee all seniors access to affordable coverage.

I support a plan that provides a voluntary, guaranteed, defined benefit under the Medicare program. A Medicare prescription drug plan would leave nothing to surprise. Seniors would know how much to expect to pay in premiums and co-payments. All seniors would be eligible to participate. Moreover, this plan would allow Medicare to negotiate the same price breaks for Medicare beneficiaries that are currently enjoyed by other large scale buyers like HMOs and insurance companies.

The Republican plan is riddled with flaws. First, it is not a Medicare benefit, rather it relies on private insurers who have already made clear that they have no intention of providing drug only plans to Medicare beneficaries. Second, the Republican proposal falls to rein in the high costs of prescription drugs for seniors. Private insurers will not be limited to what they may charge Medicare beneficiaries and will do little to reduce the high out-of-pocket costs that seniors already pay. Third, the GOP plan will only create more hardships for seniors who will be forced to jump through the hoops of their private insurer and be subjected to limited power provider and drug choices.

Mr. SMITH of Texas. Mr. Speaker, I support this legislation because it provides a prescription drug benefit to all seniors using Medicare.

In these items of escalating prescription drug prices, it is essential that seniors have access to affordable drugs to meet their medical needs.

The best way to accomplish this goal is to lower the costs of prescription drugs, ensure that all seniors have prescription drug coverage and increase choices of coverage plans.

Patients who live in rural areas and communities deserve the same access to physicians as their urban counterparts. As a member of the Rural Health Care Caucus, I am pleased that this bill addresses inequities between payments made to rural and urban hospitals, wage adjustments for physicians in rural areas and funding for health care organizations.

Not only does this legislation help consumers of prescription drugs, but it also recognizes the importance of pharmacists in providing prescription drugs, helps states cover their Medicare costs and enhances employer-sponsored health care benefits for retirees.

My Democratic colleagues have proposed a bill that costs over $800 billion and sunsets after ten years. But what happens after ten years?

This bill is a common sense, realistic approach that provides permanent coverage for seniors at a sensible cost. It gives special attention to the needs of low-income seniors and those facing exorbitant costs due to catastrophic illness.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 467, the previous question is ordered on the bill, as amended.

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. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GEPHARDT. I am in its current form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GEPHARDT moves to recommit the bill H.R. 4954 jointly to the Committee on Ways and Means and the Committee on Energy and Commerce with instructions to report the same back to the House promptly with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Rx Drug Benefit and Discount Act of 2002''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in title I of this Act an amendment 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 that section or other provision of the Social Security Act.

(c) BIPA; SECRETARY.—In this Act:

(1) BIPA.—The term ''BIPA'' means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—PRESCRIPTION DRUG PROVISIONS

Sec. 101. Voluntary medicare outpatient prescription medicine program.

''PART D—VOLUNTARY PRESCRIPTION MEDICINE BENEFIT FOR THE AGED AND DISABLED

''Sec. 1859. Medicare outpatient prescription medicine benefit.

''Sec. 1859A. Negotiating fair prices with pharmaceutical manufacturers.

''Sec. 1859B. Contract authority.

''Sec. 1859C. Eligibility; voluntary enrollment; coverage.
''Sec. 1859D. Provision of, and entitlement to, benefits.
''Sec. 1859E. Administration; quality assurance.
''Sec. 1859F. Federal Medicare Prescription Medicine Trust Fund.
''Sec. 1859G. Compensation for employers covering retiree medicine costs.
''Sec. 1859H. Medicare Prescription Medicine Advisory Committee.
Sec. 102. Provision of medicare outpatient prescription medicine coverage under the Medicare+Choice program.
Sec. 103. Medigap revisions.
Sec. 104. Transitional assistance for low income beneficiaries.
Sec. 105. Expansion of membership and duties of Medicare Payment Advisory Commission (MedPAC).

TITLE II—MEDICARE+CHOICE REVITALIZATION AND MEDICARE+CHOICE COMPETITION PROGRAM

Sec. 201. Medicare+Choice improvements.
Sec. 202. Making permanent change in Medicare+Choice reporting deadlines and annual, coordinated election period.
Sec. 203. Specialized Medicare+Choice plans for special needs beneficiaries.
Sec. 204. Extension of reasonable cost and SHMO contracts.
Sec. 205. Continuous open enrollment and disenrollment.
Sec. 206. Limitation on Medicare+Choice cost-sharing.
Sec. 207. Extension of municipal health service demonstration projects.

TITLE III—RURAL HEALTH CARE IMPROVEMENTS

Sec. 301. Reference to full market basket increase for sole community hospitals.
Sec. 302. Enhanced disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds.
Sec. 303. 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.
Sec. 304. More frequent update in weights used in hospital market basket.
Sec. 305. Improvements to critical access hospital program.
Sec. 306. Extension of temporary increase for home health services furnished in a rural area.
Sec. 307. Reference to 10 percent increase in payment for hospice care furnished in a frontier area and rural hospice demonstration project.
Sec. 308. Reference to priority for hospitals located in rural or small urban areas in redistribution of unused graduate medical education residencies.
Sec. 309. GAO study of geographic differences in payments for physicians' services.
Sec. 310. Providing safe harbor for certain collaborative efforts that benefit medically underserved populations.
Sec. 311. Relief for certain non-teaching hospitals.

TITLE IV—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

Sec. 401. Revision of acute care hospital payment updates.
Sec. 402. Freeze in level of adjustment for indirect costs of medical education (IME) through fiscal year 2007.
Sec. 403. Recognition of new medical technologies under inpatient hospital PPS.
Sec. 404. Phase-in of Federal rate for hospitals in Puerto Rico.
Sec. 405. Reference to provision relating to enhanced disproportionate share hospital (DSH) payments for rural hospitals and urban hospitals with fewer than 100 beds.
Sec. 406. Reference to provision relating to 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.
Sec. 407. Reference to provision for more frequent updates in the weights used in hospital market basket.
Sec. 408. Reference to provision making improvements to critical access hospital program.

Subtitle B—Skilled Nursing Facility Services

Sec. 411. Payment for covered skilled nursing facility services.

Subtitle C—Hospice

Sec. 421. Coverage of hospice consultation services.
Sec. 422. 10 percent increase in payment for hospice care furnished in a frontier area.
Sec. 423. Rural hospice demonstration project.

Subtitle D—Other Provisions

Sec. 431. Demonstration project for use of recovery audit contractors for part A services.

TITLE V—PROVISIONS RELATING TO PART B

Subtitle A—Physicians' Services

Sec. 501. Revision of updates for physicians' services.
Sec. 502. Studies on access to physicians' services.
Sec. 503. MedPAC report on payment for physicians' services.
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Sec. 505. Physician fee schedule wage index revision.

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Sec. 511. Competitive acquisition of certain items and services.
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Sec. 513. 5-year extension of moratorium on therapy caps; provisions relating to reports.
Sec. 514. Accelerated implementation of 20 percent coinsurance for hospital outpatient department (OPD) services; other OPD provisions.
Sec. 515. Coverage of an initial preventive physical examination.
Sec. 516. Renal dialysis services.
Sec. 517. Improved payment for certain mammography services.
Sec. 518. Waiver of part B late enrollment penalty for certain military retirees; special enrollment period.
Sec. 519. Coverage of cholesterol and blood lipid screening.

TITLE VI—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

Sec. 601. Elimination of 15 percent reduction in payment rates under the prospective payment system.
Sec. 602. Update in home health services.
Sec. 603. OASIS Task Force; suspension of certain OASIS data collection requirements pending Task Force submittal of report.
Sec. 604. MedPAC study on medicare margins of home health agencies.

Subtitle B—Direct Graduate Medical Education

Sec. 611. Redistribution of unused resident positions.
Sec. 612. Increasing for 5 years to 100 percent of the locality adjusted national average per resident amount the payment floor for direct graduate medical education payments under the medicare program.

Subtitle C—Other Provisions

Sec. 621. Modifications to Medicare Payment Advisory Commission (MedPAC).
Sec. 622. Demonstration project for disease management for certain medicare beneficiaries with diabetes.
Sec. 623. Demonstration project for medical adult day care services.
Sec. 624. Publication on final written guidance concerning prohibitions against discrimination by national origin with respect to health care services.

TITLE VII—MEDICAID PROVISIONS

Sec. 701. DSH provisions.
Sec. 702. 1-year extension of Q–I1 program.

TITLE I—PRESCRIPTION MEDICINE PROVISIONS

Subtitle A—MEDICARE PRESCRIPTION MEDICINE BENEFIT

SEC. 101. VOLUNTARY MEDICARE OUTPATIENT PRESCRIPTION MEDICINE PROGRAM.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.) is amended—

(1) by redesignating section 1859 and part D as section 1858 and part E, respectively; and

(2) by inserting after part C the following new part:

''PART D—VOLUNTARY PRESCRIPTION MEDICINE BENEFIT FOR THE AGED AND DISABLED

''MEDICARE OUTPATIENT PRESCRIPTION MEDICINE BENEFIT

''SEC. 1859. Subject to the succeeding provisions of this part, the voluntary prescription medicine benefit program under this part provides the following:

''(1) PREMIUM.—The monthly premium is $25.

''(2) DEDUCTIBLE.—The annual deductible is $100.

''(3) COINSURANCE.—The coinsurance is 20 percent.

''(4) OUT-OF-POCKET LIMIT.—The annual limit on out-of-pocket spending on covered medicines is $2,000.

''NEGOTIATING FAIR PRICES WITH PHARMACEUTICAL MANUFACTURERS

''SEC. 1859A. (a) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—The Secretary shall, consistent with the requirements of this part and the goals of providing quality care and containing costs under this part, negotiate contracts with manufacturers of covered outpatient prescription medicines that provide for the maximum prices that may be charged to individuals enrolled under this part by participating pharmacies for dispensing such medicines to such individuals.

''(b) PROMOTION OF BREAKTHROUGH MEDICINES.—In conducting negotiations with manufacturers under this part, the Secretary shall take into account the goal of promoting the development of breakthrough medicines (as defined in section 1859H(b)).

''CONTRACT AUTHORITY

''SEC. 1859B. (a) CONTRACT AUTHORITY.—

''(1) IN GENERAL.—The Secretary is responsible for the administration of this part and shall enter into contracts with appropriate pharmacy contractors on a national or regional basis to administer the benefits under this part.

''(2) PROCEDURES.—The Secretary shall establish procedures under which the Secretary—

''(A) accepts bids submitted by entities to serve as pharmacy contractors under this part in a region or on a national basis;

''(B) awards contracts to such contractors to administer benefits under this part to eligible beneficiaries in the region or on a national basis; and

''(C) provides for the termination (and nonrenewal) of a contract in the case of a contractor's failure to meet the requirements of the contract and this part.

''(3) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into contracts under this part.

''(4) TERMS AND CONDITIONS.—Such contracts shall have such terms and conditions as the Secretary shall specify and shall be for such terms (of at least 2 years, but not to exceed 5 years) as the Secretary shall specify consistent with this part.

''(5) USE OF PHARMACY CONTRACTORS IN PRICE NEGOTIATIONS.—Such contracts shall require the contractor involved to negotiate contracts with manufacturers that provide for maximum prices for covered outpatient prescription medicines that are lower than the maximum prices negotiated under section 1859A(a), if applicable. The price reductions shall be passed on to eligible beneficiaries and the Secretary shall hold the contractor accountable for meeting performance requirements with respect to price reductions and limiting price increases.

''(6) AREA FOR CONTRACTS.—

''(A) REGIONAL BASIS.—

''(i) IN GENERAL.—Except as provided in clause (ii) and subject to subparagraph (B), the contract entered into between the Secretary and a pharmacy contractor shall require the contractor to administer the benefits under this part in a region determined by the Secretary under subparagraph (B) or on a national basis.

''(ii) PARTIAL REGIONAL BASIS.—

''(I) IN GENERAL.—If determined appropriate by the Secretary, the Secretary may permit the benefits to be administered in a partial region determined appropriate by the Secretary.

''(II) REQUIREMENTS.—If the Secretary permits administration pursuant to subclause (I), the Secretary shall ensure that the partial region in which administration is effected is no smaller than a State and is at least the size of the commercial service area of the contractor for that area.

''(B) DETERMINATION.—

''(i) IN GENERAL.—In determining regions for contracts under this part, the Secretary shall—

''(I) take into account the number of individuals enrolled under this part in an area in order to encourage participation by pharmacy contractors; and

''(II) ensure that there are at least 10 different regions in the United States.

''(ii) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of administrative areas under this paragraph shall not be subject to administrative or judicial review.

''(7) SUBMISSION OF BIDS.—

''(A) SUBMISSION.—

''(i) IN GENERAL.—Subject to subparagraph (B), each entity desiring to serve as a pharmacy contractor under this part in an area shall submit a bid with respect to such area to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(ii) BID THAT COVERS MULTIPLE AREAS.—The Secretary shall permit an entity to submit a single bid for multiple areas if the bid is applicable to all such areas.

''(B) REQUIRED INFORMATION.—The bids described in subparagraph (A) shall include—

''(i) a proposal for the estimated prices of covered outpatient prescription medicines and the projected annual increases in such prices, including the additional reduction in price negotiated below the Secretary's maximum price and differentials between preferred and nonpreferred prices, if applicable;

''(ii) a statement regarding the amount that the entity will charge the Secretary for administering the benefits under the contract;

''(iii) a statement regarding whether the entity will reduce the applicable coinsurance percentage pursuant to section 1859E(a)(1)(A)(ii) and if so, the amount of such reduction and how such reduction is tied to the performance requirements described in subsection (c)(4)(A)(ii);

''(iv) a detailed description of the performance requirements for which the administrative fee of the entity will be subject to risk pursuant to subsection (c)(4)(A)(ii);

''(v) a detailed description of access to pharmacy services provided by the entity, including information regarding whether the pharmacy contractor will use a preferred pharmacy network, and, if so, how the pharmacy contractor will ensure access to pharmacies that choose to be outside of that network, and whether there will be increased cost-sharing for beneficiaries if they obtain medicines at such pharmacies;

''(vi) a detailed description of the procedures and standards the entity will use for—

''(I) selecting preferred prescription medicines; and

''(II) determining when and how often the list of preferred prescription medicines should be modified;

''(vii) a detailed description of any ownership or shared financial interests with pharmaceutical manufacturers, pharmacies, and other entities involved in the administration or delivery of benefits under this part as proposed in the bid;

''(viii) a detailed description of the entity's estimated marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries; and

''(ix) such other information that the Secretary determines is necessary in order to carry out this part, including information relating to the bidding process under this part.

The procedures under clause (vi) shall include the use of a pharmaceutical and therapeutics committee the members of which include practicing pharmacists.

''(8) AWARDING OF CONTRACTS.—

''(A) NUMBER OF CONTRACTS.—The Secretary shall, consistent with the requirements of this part and the goals of providing quality care and of containing costs under this part, award in a competitive manner at least 2 contracts to administer benefits under this part in each area specified under paragraph (6), unless only 1 pharmacy contractor submitting a bid meets the minimum standards specified under this part and by the Secretary.

''(B) DETERMINATION.—In determining which of the pharmacy contractors that submitted bids that meet the minimum standards specified under this part and by the Secretary to award a contract, the Secretary shall consider the comparative merits of each bid, as determined on the basis of relevant factors, with respect to—

''(i) how well the contractor meets such minimum standards;

''(ii) the amount that the contractor will charge the Secretary for administering the benefits under the contract;

''(iii) the performance standards established under subsection (c)(2) and performance requirements for which the administrative fee of the entity will be subject to risk pursuant to subsection (c)(4)(A)(ii);

''(iv) the proposed negotiated prices of covered outpatient medicines and annual increases in such prices;

''(v) factors relating to benefits, quality and performance, beneficiary cost-sharing, and consumer satisfaction;

''(vi) past performance and prior experience of the contractor in administering a prescription medicine benefit program;

''(vii) effectiveness of the contractor in containing costs through pricing incentives and utilization management; and

''(viii) such other factors as the Secretary deems necessary to evaluate the merits of each bid.

''(C) EXCEPTION TO CONFLICT OF INTEREST RULES.—In awarding contracts with pharmacy contractors under this part, the Secretary may waive conflict of interest laws generally applicable to Federal acquisitions (subject to such safeguards as the Secretary may find necessary to impose) in circumstances where the Secretary finds that such waiver—

''(i) is not inconsistent with the—

''(I) purposes of the programs under this part; or

''(II) best interests of beneficiaries enrolled under this part; and

''(ii) permits a sufficient level of competition for such contracts, promotes efficiency of benefits administration, or otherwise serves the objectives of the program under this part.

''(D) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of the Secretary to award or not award a contract to a pharmacy contractor under this part shall not be subject to administrative or judicial review.

''(9) ACCESS TO BENEFITS IN CERTAIN AREAS.—

''(A) AREAS NOT COVERED BY CONTRACTS.—The Secretary shall develop procedures for the provision of covered outpatient prescription medicines under this part to each eligible beneficiary enrolled under this part that resides in an area that is not covered by any contract under this part.

''(B) BENEFICIARIES RESIDING IN DIFFERENT LOCATIONS.—The Secretary shall develop procedures to ensure that each eligible beneficiary enrolled under this part that resides in different areas in a year is provided the benefits under this part throughout the entire year.

''(b) QUALITY, FINANCIAL, AND OTHER STANDARDS AND PROGRAMS.—In consultation with appropriate pharmacy contractors, pharmacists, and health care professionals with expertise in prescribing, dispensing, and the appropriate use of prescription medicines, the Secretary shall establish standards and programs for the administration of this part to ensure appropriate prescribing, dispensing, and utilization of outpatient medicines under this part, to avoid adverse medicine reactions, and to continually reduce errors in the delivery of medically appropriate covered benefits. The Secretary shall not award a contract to a pharmacy contractor under this part unless the Secretary finds that the contractor agrees to comply with such standards and programs and other terms and conditions as the Secretary shall specify. The standards and programs under this subsection shall be applied

to any administrative agreements described in subsection (a) the Secretary enters into. Such standards and programs shall include the following:

''(1) ACCESS.—

''(A) IN GENERAL.—The pharmacy contractor shall ensure that covered outpatient prescription medicines are accessible and convenient to eligible beneficiaries enrolled under this part for whom benefits are administered by the pharmacy contractor, including by offering the services 24 hours a day and 7 days a week for emergencies.

''(B) ON-LINE REVIEW.—The pharmacy contractor shall provide for on-line prospective review available 24 hours a day and 7 days a week in order to evaluate each prescription for medicine therapy problems due to duplication, interaction, or incorrect dosage or duration of therapy.

''(C) GUARANTEED ACCESS TO MEDICINES IN RURAL AND HARD-TO-SERVE AREAS.—The Secretary shall ensure that all beneficiaries have guaranteed access to the full range of pharmaceuticals under this part, and shall give special attention to access, pharmacist counseling, and delivery in rural and hard-to-serve areas, including through the use of incentives such as bonus payments to retail pharmacists in rural areas and extra payments to the pharmacy contractor for the cost of rapid delivery of pharmaceuticals and any other actions necessary.

''(D) PREFERRED PHARMACY NETWORKS.—

''(i) IN GENERAL.—If a pharmacy contractor uses a preferred pharmacy network to deliver benefits under this part, such network shall meet minimum access standards established by the Secretary.

''(ii) STANDARDS.—In establishing standards under clause (i), the Secretary shall take into account reasonable distances to pharmacy services in both urban and rural areas.

''(E) ADHERENCE TO NEGOTIATED PRICES.—The pharmacy contractor shall have in place procedures to assure compliance of pharmacies with the requirements of subsection (d)(3)(C) (relating to adherence to negotiated prices).

''(F) CONTINUITY OF CARE.—

''(i) IN GENERAL.—The pharmacy contractor shall ensure that, in the case of an eligible beneficiary who loses coverage under this part with such entity under circumstances that would permit a special election period (as established by the Secretary under section 1859C(b)(3)), the contractor will continue to provide coverage under this part to such beneficiary until the beneficiary enrolls and receives such coverage with another pharmacy contractor under this part or, if eligible, with a Medicare+Choice organization.

''(ii) LIMITED PERIOD.—In no event shall a pharmacy contractor be required to provide the extended coverage required under clause (i) beyond the date which is 30 days after the coverage with such contractor would have terminated but for this subparagraph.

''(2) ENROLLEE GUIDELINES.—The pharmacy contractor shall, consistent with State law, apply guidelines for counseling enrollees regarding—

''(A) the proper use of covered outpatient prescription medicine: and

''(B) interactions and contra-indications.

''(3) EDUCATION.—The pharmacy contractor shall apply methods to identify and educate providers, pharmacists, and enrollees regarding—

''(A) instances or patterns concerning the unnecessary or inappropriate prescribing or dispensing of covered outpatient prescription medicines;

''(B) instances or patterns of substandard care;

''(C) potential adverse reactions to covered outpatient prescription medicines;

''(D) inappropriate use of antibiotics;

''(E) appropriate use of generic products; and

''(F) the importance of using covered outpatient prescription medicines in accordance with the instruction of prescribing providers.

''(4) COORDINATION.—The pharmacy contractor shall coordinate with State prescription medicine programs, other pharmacy contractors, pharmacies, and other relevant entities as necessary to ensure appropriate coordination of benefits with respect to enrolled individuals when such individual is traveling outside the home service area, and under such other circumstances as the Secretary may specify.

''(5) COST DATA.—

''(A) The pharmacy contractor shall make data on prescription medicine negotiated prices (including data on discounts) available to the Secretary.

''(B) The Secretary shall require, either directly or through a pharmacy contractor, that participating pharmacists, physicians, and manufacturers—

''(i) maintain their prescription medicine cost data (including data on discounts) in a form and manner specified by the Secretary;

''(ii) make such prescription medicine cost data available for review and audit by the Secretary; and

''(iii) certify that the prescription medicine cost data are current, accurate, and complete, and reflect all discounts obtained by the pharmacist or physician in the purchasing of covered outpatient prescription medicines.

Discounts referred to in subparagraphs (A) and (B) shall include all volume discounts, manufacturer rebates, prompt payment discounts, free goods, in-kind services, or any other thing of financial value provided explicitly or implicitly in exchange for the purchase of a covered outpatient prescription medicine.

''(6) REPORTING.—The pharmacy contractor shall provide the Secretary with periodic reports on—

''(A) the contractor's costs of administering this part;

''(B) utilization of benefits under this part;

''(C) marketing and advertising expenditures related to enrolling and retaining individuals under this part; and

''(D) grievances and appeals.

''(7) RECORDS AND AUDITS.—The pharmacy contractor shall maintain adequate records related to the administration of benefits under this part and afford the Secretary access to such records for auditing purposes.

''(8) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The pharmacy contractor shall comply with requirements of section 1851(h) (relating to marketing material and application forms) with respect to this part in the same manner as such requirements apply under part C, except that the provisions of paragraph (4)(A) of such section shall not apply with respect to discounts or rebates provided in accordance with this part.

''(c) INCENTIVES FOR COST AND UTILIZATION MANAGEMENT AND QUALITY IMPROVEMENT.—

''(1) IN GENERAL.—The Secretary shall include in a contract awarded under subsection (b) with a pharmacy contractor such incentives for cost and utilization management and quality improvement as the Secretary may deem appropriate. The contract may provide financial or other incentives to encourage greater savings to the program under this part.

''(2) PERFORMANCE STANDARDS.—The Secretary shall provide for performance standards (which may include monetary bonuses if the standards are met and penalties if the standards are not met), including standards relating to the time taken to answer member and pharmacy inquiries (written or by telephone), the accuracy of responses, claims processing accuracy, online system availability, appeal procedure turnaround time, system availability, the accuracy and timeliness of reports, and level of beneficiary satisfaction.

''(3) OTHER INCENTIVES.—Such incentives under this subsection may also include—

''(A) financial incentives under which savings derived from the substitution of generic and other preferred multi-source medicines in lieu of nongeneric and nonpreferred medicines are made available to pharmacy contractors, pharmacies, beneficiaries, and the Federal Medicare Prescription Medicine Trust Fund; and

''(B) any other incentive that the Secretary deems appropriate and likely to be effective in managing costs or utilization or improving quality that does not reduce the access of beneficiaries to medically necessary covered outpatient medicines.

''(4) REQUIREMENTS FOR PROCEDURES.—

''(A) IN GENERAL.—The Secretary shall establish procedures for making payments to each pharmacy contractor with a contract under this part for the administration of the benefits under this part. The procedures shall provide for the following:

''(i) ADMINISTRATIVE PAYMENT.—Payment of administrative fees for such administration.

''(ii) RISK REQUIREMENT.—An adjustment of a percentage (determined under subparagraph (B)) of the administrative fee payments made to a pharmacy contractor to ensure that the contractor, in administering the benefits under this part, pursues performance requirements established by the Secretary, including the following:

''(I) QUALITY SERVICE.—The contractor provides eligible beneficiaries for whom it administers benefits with quality services, as measured by such factors as sustained pharmacy network access, timeliness and accuracy of service delivery in claims processing and card production, pharmacy and member service support access, and timely action with regard to appeals and current beneficiary service surveys.

''(II) QUALITY CLINICAL CARE.—The contractor provides such beneficiaries with quality clinical care, as measured by such factors as providing notification to such beneficiaries and to providers in order to prevent adverse drug reactions and reduce medication errors and specific clinical suggestions to improve health and patient and prescriber education as appropriate.

''(III) CONTROL OF MEDICARE COSTS.—The contractor contains costs under this part to the Federal Medicare Prescription Medicine Trust Fund and enrollees, as measured by generic substitution rates, price discounts, and other factors determined appropriate by the Secretary that do not reduce the access of beneficiaries to medically necessary covered outpatient prescription medicines.

''(B) PERCENTAGE OF PAYMENT TIED TO RISK.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary shall determine the percentage of the administrative payments to a pharmacy contractor that will be tied to the performance requirements described in subparagraph (A)(ii).

''(ii) LIMITATION ON RISK TO ENSURE PROGRAM STABILITY.—In order to provide for program stability, the Secretary may not establish a percentage to be adjusted under this paragraph at a level that jeopardizes the ability of a pharmacy contractor to administer the benefits under this part or administer such benefits in a quality manner.

''(C) RISK ADJUSTMENT OF PAYMENTS BASED ON ENROLLEES IN PLAN.—To the extent that a pharmacy contractor is at risk under this paragraph, the procedures established under this paragraph may include a methodology for risk adjusting the payments made to such contractor based on the differences in actuarial risk of different enrollees being served if the Secretary determines such adjustments to be necessary and appropriate.

''(d) AUTHORITY RELATING TO PHARMACY PARTICIPATION.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a pharmacy contractor may establish consistent with this part conditions for the participation of pharmacies, including conditions relating to quality (including reduction of medical errors) and technology.

''(2) AGREEMENTS WITH PHARMACIES.—Each pharmacy contractor shall enter into a participation agreement with any pharmacy that meets the requirements of this subsection and section 1859E to furnish covered outpatient prescription medicines to individuals enrolled under this part.

''(3) TERMS OF AGREEMENT.—An agreement under this subsection shall include the following terms and conditions:

''(A) APPLICABLE REQUIREMENTS.—The pharmacy shall meet (and throughout the contract period continue to meet) all applicable Federal requirements and State and local licensing requirements.

''(B) ACCESS AND QUALITY STANDARDS.—The pharmacy shall comply with such standards as the Secretary (and such a pharmacy contractor) shall establish concerning the quality of, and enrolled individuals' access to, pharmacy services under this part. Such standards shall require the pharmacy—

''(i) not to refuse to dispense covered outpatient prescription medicines to any individual enrolled under this part;

''(ii) to keep patient records (including records on expenses) for all covered outpatient prescription medicines dispensed to such enrolled individuals;

''(iii) to submit information (in a manner specified by the Secretary to be necessary to administer this part) on all purchases of such medicines dispensed to such enrolled individuals; and

''(iv) to comply with periodic audits to assure compliance with the requirements of this part and the accuracy of information submitted.

''(C) ADHERENCE TO NEGOTIATED PRICES.—(i) The total charge for each medicine dispensed by the pharmacy to an enrolled individual under this part, without regard to whether the individual is financially responsible for any or all of such charge, shall not exceed the price negotiated under section 1859A(a) or, if lower, negotiated under subsection (a)(5) (or, if less, the retail price for the medicine involved) with respect to such medicine plus a reasonable dispensing fee determined contractually with the pharmacy contractor.

''(ii) The pharmacy does not charge (or collect from) an enrolled individual an amount that exceeds the individual's obligation (as determined in accordance with the provisions of this part) of the applicable price described in clause (i).

''(D) ADDITIONAL REQUIREMENTS.—The pharmacy shall meet such additional contract requirements as the applicable pharmacy contractor specifies under this section.

''(4) APPLICABILITY OF FRAUD AND ABUSE PROVISIONS.—The provisions of section 1128 through 1128C (relating to fraud and abuse) apply to pharmacies participating in the program under this part.

''ELIGIBILITY; VOLUNTARY ENROLLMENT; COVERAGE

''SEC. 1859C. (a) ELIGIBILITY.—Each individual who is entitled to hospital insurance benefits under part A or is eligible to be enrolled in the medical insurance program under part B is eligible to enroll in accordance with this section for outpatient prescription medicine benefits under this part.

''(b) VOLUNTARY ENROLLMENT.—

''(1) IN GENERAL.—An individual may enroll under this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed in or under this subsection.

''(2) INITIAL ENROLLMENT PERIOD.—

''(A) INDIVIDUALS CURRENTLY COVERED.—In the case of an individual who satisfies subsection (a) as of November 1, 2004, the initial general enrollment period shall begin on August 1, 2004, and shall end on March 1, 2005.

''(B) INDIVIDUAL COVERED IN FUTURE.—In the case of an individual who first satisfies subsection (a) on or after November 1, 2004, the individual's initial enrollment period shall begin on the first day of the third month before the month in which such individual first satisfies such paragraph and shall end seven months later. The Secretary shall apply rules similar to the rule described in the second sentence of section 1837(d).

''(3) SPECIAL ENROLLMENT PERIODS (WITHOUT PREMIUM PENALTY).—

''(A) EMPLOYER COVERAGE AT TIME OF INITIAL GENERAL ENROLLMENT PERIOD.—In the case of an individual who—

''(i) at the time the individual first satisfies subsection (a) is enrolled in a group health plan (including continuation coverage) that provides outpatient prescription medicine coverage by reason of the individual's (or the individual's spouse's) current (or, in the case of continuation coverage, former) employment status, and

''(ii) has elected not to enroll (or to be deemed enrolled) under this subsection during the individual's initial enrollment period,

there shall be a special enrollment period of 6 months beginning with the first month that includes the date of the individual's (or individual's spouse's) retirement from or termination of current employment status with the employer that sponsors the plan, or, in the case of continuation coverage, that includes the date of termination of such coverage, or that includes the date the plan substantially terminates outpatient prescription medicine coverage.

''(B) DROPPING OF RETIREE PRESCRIPTION MEDICINE COVERAGE.—In the case of an individual who—

''(i) at the time the individual first satisfies subsection (a) is enrolled in a group health plan that provides outpatient prescription medicine coverage other than by reason of the individual's (or the individual's spouse's) current employment; and

''(ii) has elected not to enroll (or to be deemed enrolled) under this subsection during the individual's initial enrollment period,

there shall be a special enrollment period of 6 months beginning with the first month that includes the date that the plan substantially terminates outpatient prescription medicine coverage and ending 6 months later.

''(C) LOSS OF MEDICARE+CHOICE PRESCRIPTION MEDICINE COVERAGE.—In the case of an individual who is enrolled under part C in a Medicare+Choice plan that provides prescription medicine benefits, if such enrollment is terminated because of the termination or reduction in service area of the plan, there shall be a special enrollment period of 6 months beginning with the first month that includes the date that such plan is terminated or such reduction occurs and ending 6 months later.

''(D) LOSS OF MEDICAID PRESCRIPTION MEDICINE COVERAGE.—In the case of an individual who—

''(i) satisfies subsection (a);

''(ii) loses eligibility for benefits (that include benefits for prescription medicine) under a State plan after having been enrolled (or determined to be eligible) for such benefits under such plan; and

''(iii) is not otherwise enrolled under this subsection at the time of such loss of eligibility,

there shall be a special enrollment period specified by the Secretary of not less than 6 months beginning with the first month that includes the date that the individual loses such eligibility.

''(4) LATE ENROLLMENT WITH PREMIUM PENALTY.—The Secretary shall permit an individual who satisfies subsection (a) to enroll other than during the initial enrollment period under paragraph (2) or a special enrollment period under paragraph (3). But, in the case of such an enrollment, the amount of the monthly premium of the individual is subject to an increase under section 1859C(e)(1).

''(5) INFORMATION.—

''(A) IN GENERAL.—The Secretary shall broadly distribute information to individuals who satisfy subsection (a) on the benefits provided under this part. The Secretary shall periodically make available information on the cost differentials to enrollees for the use of generic medicines and other medicines.

''(B) TOLL-FREE HOTLINE.—The Secretary shall maintain a toll-free telephone hotline (which may be a hotline already used by the Secretary under this title) for purposes of providing assistance to beneficiaries in the program under this part, including responding to questions concerning coverage, enrollment, benefits, grievances and appeals procedures, and other aspects of such program.

''(6) ENROLLEE DEFINED.—For purposes of this part, the term 'enrollee' means an individual enrolled for benefits under this part.

''(c) COVERAGE PERIOD.—

''(1) IN GENERAL.—The period during which an individual is entitled to benefits under this part (in this subsection referred to as the individual's 'coverage period') shall begin on such a date as the Secretary shall establish consistent with the type of coverage rules described in subsections (a) and (e) of section 1838, except that in no case shall a coverage period begin before January 1, 2005. No payments may be made under this part with respect to the expenses of an individual unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period.

''(2) TERMINATION.—The Secretary shall provide for the application of provisions under this subsection similar to the provisions in section 1838(b).

''(d) PROVISION OF BENEFITS TO MEDICARE+CHOICE ENROLLEES.—In the case of an individual who is enrolled under this part and is enrolled in a Medicare+Choice plan under part C, the individual shall be provided the benefits under this part through such plan and not through payment under this part.

''(e) LATE ENROLLMENT PENALTIES; PAYMENT OF PREMIUMS.—

''(1) LATE ENROLLMENT PENALTY.—

''(A) IN GENERAL.—In the case of a late enrollment described in subsection (b)(4), subject to the succeeding provisions of this paragraph, the Secretary shall establish procedures for increasing the amount of the monthly premium under this part applicable to such enrollee by an amount that the Secretary determines is actuarially sound for each such period.

''(B) PERIODS TAKEN INTO ACCOUNT.—For purposes of calculating any 12-month period under subparagraph (A), there shall be taken into account months of lapsed coverage in a manner comparable to that applicable under the second sentence of section 1839(b).

''(C) PERIODS NOT TAKEN INTO ACCOUNT.—

''(i) IN GENERAL.—For purposes of calculating any 12-month period under subparagraph (A), subject to clause (ii), there shall not be taken into account months for which the enrollee can demonstrate that the enrollee was covered under a group health plan that provides coverage of the cost of prescription medicines whose actuarial value (as defined by the Secretary) to the enrollee equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription medicine benefit program under this part.

''(ii) APPLICATION.—This subparagraph shall only apply with respect to a coverage period the enrollment for which occurs before the end of the 60-day period that begins on the first day of the month which includes the date on which the plan terminates or reduces its service area (in a manner that results in termination of enrollment), ceases to provide, or reduces the value of the prescription medicine coverage under such plan to below the value of the coverage provided under the program under this part.

''(2) INCORPORATION OF PREMIUM PAYMENT AND GOVERNMENT CONTRIBUTIONS PROVISIONS.—The provisions of sections 1840 and 1844(a)(1) shall apply to enrollees under this part in the same manner as they apply to individuals 65 years of age or older enrolled under part B. For purposes of this subsection, any reference in a section referred to in a previous subsection to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Federal Medicare Prescription Medicine Trust Fund.

''(f) ELECTION OF PHARMACY CONTRACTOR TO ADMINISTER BENEFITS.—The Secretary shall establish a process whereby each individual enrolled under this part and residing in a region may elect the pharmacy contractor that will administer the benefits under this part with respect to the individual. Such process shall permit the individual to make an initial election and to change such an election on at least an annual basis and under such other circumstances as the Secretary shall specify.

''PROVISION OF, AND ENTITLEMENT TO, BENEFITS

''SEC. 1859D. (a) BENEFITS.—Subject to the succeeding provisions of this section, the benefits provided to an enrollee by the program under this part shall consist of the following:

''(1) COVERED OUTPATIENT PRESCRIPTION MEDICINE BENEFITS.—Entitlement to have payment made on the individual's behalf for covered outpatient prescription medicines.

''(2) LIMITATION ON COST-SHARING FOR PART B OUTPATIENT PRESCRIPTION MEDICINES.—

''(A) IN GENERAL.—Once an enrollee has incurred aggregate countable cost-sharing (as defined in subparagraph (B)) equal to the stop-loss limit specified in subsection (c)(4) for expenses in a year, entitlement to the elimination of cost-sharing otherwise applicable under part B for additional expenses incurred in the year for outpatient prescription medicines or biologicals for which payment is made under part B.

''(B) COUNTABLE COST-SHARING DEFINED.—For purposes of this part, the term 'countable cost-sharing' means—

''(i) out-of-pocket expenses for outpatient prescription medicines with respect to which benefits are payable under part B, and

''(ii) cost-sharing under subsections (c)(3)(B) and (c)(3)(C)(i).

''(b) COVERED OUTPATIENT PRESCRIPTION MEDICINE DEFINED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this part the term 'covered outpatient prescription medicine' means any of the following products:

''(A) A medicine which may be dispensed only upon prescription, and—

''(i) which is approved for safety and effectiveness as a prescription medicine under section 505 of the Federal Food, Drug, and Cosmetic Act;

''(ii)(I) which was commercially used or sold in the United States before the date of enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a medicine, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

''(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a medicine, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such medicine under such section because the Secretary has determined that the medicine is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling.

''(B) A biological product which—

''(i) may only be dispensed upon prescription;

''(ii) is licensed under section 351 of the Public Health Service Act; and

''(iii) is produced at an establishment licensed under such section to produce such product.

''(C) Insulin approved under appropriate Federal law, and needles, syringes, and disposable pumps for the administration of such insulin.

''(D) A prescribed medicine or biological product that would meet the requirements of subparagraph (A) or (B) but that is available over-the-counter in addition to being available upon prescription, but only if the particular dosage form or strength prescribed and required for the individual is not available over-the-counter.

''(E) Smoking cessation agents (as specified by the Secretary).

''(2) EXCLUSION.—The term 'covered outpatient prescription medicine' does not include—

''(A) medicines or classes of medicines, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), as the Secretary may specify and does not include such other medicines, classes, and uses as the Secretary may specify consistent with the goals of providing quality care and containing costs under this part;

''(B) except as provided in paragraphs (1)(D) and (1)(E), any product which may be distributed to individuals without a prescription;

''(C) any product when furnished as part of, or as incident to, a diagnostic service or any other item or service for which payment may be made under this title; or

''(D) any product that is covered under part B of this title.

''(c) PAYMENT OF BENEFITS.—

''(1) COVERED OUTPATIENT PRESCRIPTION MEDICINES.—There shall be paid from the Federal Medicare Prescription Medicine Trust Fund, in the case of each enrollee who incurs expenses for medicines with respect to which benefits are payable under this part under subsection (a)(1), amounts equal to the sum of—

''(A) the price for which the medicine is made available under this part (consistent with sections 1859A and 1859B), reduced by any applicable cost-sharing under paragraphs (2) and (3); and

''(B) a reasonable dispensing fee.

The price under subparagraph (A) shall in no case exceed the retail price for the medicine involved.

''(2) DEDUCTIBLE.—The amount of payment under paragraph (1) for expenses incurred in a year, beginning with 2005, shall be reduced by an annual deductible equal to the amount specified in section 1859(2) (subject to adjustment under paragraph (8)). Only expenses for countable cost-sharing (as defined in subsection (a)(2)(B)) shall be taken into account in applying this paragraph.

''(3) COINSURANCE.—

''(A) IN GENERAL.—The amount of payment under paragraph (1) for expenses incurred in a year shall be further reduced (subject to the stop-loss limit under paragraph (4)) by coinsurance as provided under this paragraph.

''(B) PREFERRED MEDICINES.—The coinsurance under this paragraph in the case of a preferred medicine (including a medicine treated as a preferred medicine under paragraph (5)), is equal to 20 percent of the price applicable under paragraph (1)(A) (or such lower percentage as may be provided for under section 1859E(a)(1)(A)(ii)). In this part, the term 'preferred medicine' means, with respect to medicines classified within a therapeutic class, those medicines which have been designated as a preferred medicine by the Secretary or the pharmacy contractor involved with respect to that class and (in the case of a nongeneric medicine) with respect to which a contract has been negotiated under this part.

''(C) NONPREFERRED MEDICINES.—The coinsurance under this paragraph in the case of a nonpreferred medicine that is not treated as a preferred medicine under paragraph (5) is equal to the sum of—

''(i) 20 percent of the price for lowest price preferred medicine that is within the same therapeutic class; and

''(ii) the amount by which—

''(I) the price at which the nonpreferred medicine is made available to the enrollee; exceeds

''(II) the price of such lowest price preferred medicine.

''(4) NO COINSURANCE ONCE OUT-OF-POCKET EXPENDITURES EQUAL STOP-LOSS LIMIT.—Once an enrollee has incurred aggregate countable cost-sharing under paragraph (3) (including cost-sharing under part B attributable to outpatient prescription drugs or biologicals) equal to the amount specified in section 1859(4) (subject to adjustment under paragraph (8)) for expenses in a year—

''(A) there shall be no coinsurance under paragraph (3) for additional expenses incurred in the year involved; and

''(B) there shall be no coinsurance under part B for additional expenses incurred in the year involved for outpatient prescription drugs and biologicals.

''(5) APPEALS RIGHTS RELATING TO COVERAGE OF NONPREFERRED MEDICINES.—

''(A) PROCEDURES REGARDING THE DETERMINATION OF MEDICINES THAT ARE MEDICALLY

NECESSARY.—Each pharmacy contractor shall have in place procedures on a case-by-case basis to treat a nonpreferred medicine as a preferred medicine under this part if the preferred medicine is determined to be not as effective for the enrollee or to have significant adverse effect on the enrollee. Such procedures shall require that such determinations are based on professional medical judgment, the medical condition of the enrollee, and other medical evidence.

''(B) PROCEDURES REGARDING DENIALS OF CARE.—Such contractor shall have in place procedures to ensure—

''(i) a timely internal review for resolution of denials of coverage (in whole or in part and including those regarding the coverage of nonpreferred medicines) in accordance with the medical exigencies of the case and a timely resolution of complaints, by enrollees in the plan, or by providers, pharmacists, and other individuals acting on behalf of each such enrollee (with the enrollee's consent) in accordance with requirements (as established by the Secretary) that are comparable to such requirements for Medicare+Choice organizations under part C;

''(ii) that the entity complies in a timely manner with requirements established by the Secretary that (I) provide for an external review by an independent entity selected by the Secretary of denials of coverage described in clause (i) not resolved in the favor of the beneficiary (or other complainant) under the process described in such clause and (II) are comparable to the external review requirements established for Medicare+Choice organizations under part C; and

''(iii) that enrollees are provided with information regarding the appeals procedures under this part at the time of enrollment with a pharmacy contractor under this part and upon request thereafter.

''(6) TRANSFER OF FUNDS TO COVER COSTS OF PART B PRESCRIPTION MEDICINE CATASTROPHIC BENEFIT.—With respect to benefits described in subsection (a)(2), there shall transferred from the Federal Medicare Prescription Medicine Trust Fund to the Federal Supplementary Medical Insurance Trust Fund amounts equivalent to the elimination of cost-sharing described in such subsection.

''(7) PERMITTING APPLICATION UNDER PART B OF NEGOTIATED PRICES.—For purposes of making payment under part B for medicines that would be covered outpatient prescription medicines but for the exclusion under subparagraph (B) or (C) of subsection (b)(2), the Secretary may elect to apply the payment basis used for payment of covered outpatient prescription medicines under this part instead of the payment basis otherwise used under such part, if it results in a lower cost to the program.

''(8) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—With respect to expenses incurred in a year after 2005—

''(i) the deductible under paragraph (2) is equal to the deductible determined under such paragraph (or this subparagraph) for the previous year increased by the percentage increase in per capita program expenditures (as estimated in advance for the year involved under subparagraph (B)); and

''(ii) the stop-loss limit under paragraph (3) is equal to the stop-loss limit determined under such paragraph (or this subparagraph) for the previous year increased by such percentage increase.

The Secretary shall adjust such percentage increase in subsequent years to take into account misestimations made of the per capita program expenditures under clauses (i) and (ii) in previous years. Any increase under this subparagraph that is not a multiple of $10 shall be rounded to the nearest multiple of $10.

''(B) ESTIMATION OF INCREASE IN PER CAPITA PROGRAM EXPENDITURES.—The Secretary shall before the beginning of each year (beginning with 2006) estimate the percentage increase in average per capita aggregate expenditures from the Federal Medicare Prescription Medicine Trust Fund for the year involved compared to the previous year.

''(C) RECONCILIATION.—The Secretary shall also compute (beginning with 2007) the actual percentage increase in such aggregate expenditures in order to provide for reconciliation of deductibles, stop-loss limits, and premiums under the second sentence of subparagraph (A) and under section 1859D(d)(2).

''(d) AMOUNT OF PREMIUMS.—

''(1) MONTHLY PREMIUM RATE IN 2005.—The monthly premium rate in 2005 for prescription medicine benefits under this part is the amount specified in section 1859(1).

''(2) INFLATION ADJUSTMENT FOR SUBSEQUENT YEARS.—The monthly premium rate for a year after 2005 for prescription medicine benefits under this part is equal to the monthly premium rate for the previous year under this subsection increased by the percentage increase in per capita program expenditures (as estimated in advance for the year involved under subsection (c)(8)(B)). The Secretary shall adjust such percentage in subsequent years to take into account misestimations made of the per capita program expenditures under the previous sentence in previous years. Any increase under this paragraph that is not a multiple of $1 shall be rounded to the nearest multiple of $1.

''ADMINISTRATION; QUALITY ASSURANCE

''SEC. 1859E. (a) RULES RELATING TO PROVISION OF BENEFITS.—

''(1) PROVISION OF BENEFITS.—

''(A) IN GENERAL.—In providing benefits under this part, the Secretary (directly or through the contracts with pharmacy contractors) shall employ mechanisms to provide benefits appropriately and efficiently, and those mechanisms may include—

''(i) the use of—

''(I) price negotiations (consistent with subsection (b));

''(II) reduced coinsurance (below 20 percent) to encourage the utilization of appropriate preferred medicines; and

''(III) methods to reduce medication errors and encourage appropriate use of medications; and

''(ii) permitting pharmacy contractors, as approved by the Secretary, to make exceptions to section 1859D(c)(3)(C) (relating to cost-sharing for non-preferred medicines) to secure best prices for enrollees so long as the payment amount under section 1859D(c)(1) does not equal zero.

''(B) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent the Secretary (directly or through the contracts with pharmacy contractors) from using incentives to encourage enrollees to select generic or other cost-effective medicines, so long as—

''(i) such incentives are designed not to result in any increase in the aggregate expenditures under the Federal Medicare Prescription Medicine Trust Fund; and

''(ii) a beneficiary's coinsurance shall be no greater than 20 percent in the case of a preferred medicine (including a nonpreferred medicine treated as a preferred medicine under section 1859D(c)(5)).

''(2) CONSTRUCTION.—Nothing in this part shall preclude the Secretary or a pharmacy contractor from—

''(A) educating prescribing providers, pharmacists, and enrollees about medical and cost benefits of preferred medicines;

''(B) requesting prescribing providers to consider a preferred medicine prior to dispensing of a nonpreferred medicine, as long as such request does not unduly delay the provision of the medicine;

''(C) using mechanisms to encourage enrollees under this part to select cost-effective medicines or less costly means of receiving or administering medicines, including the use of therapeutic interchange programs, disease management programs, and notification to the beneficiary that a more affordable generic medicine equivalent was not selected by the prescribing provider and a statement of the lost cost savings to the beneficiary;

''(D) using price negotiations to achieve reduced prices on covered outpatient prescription medicines, including new medicines, medicines for which there are few therapeutic alternatives, and medicines of particular clinical importance to individuals enrolled under this part; and

''(E) utilizing information on medicine prices of OECD countries and of other payors in the United States in the negotiation of prices under this part.

''(b) PRICE NEGOTIATIONS PROCESS.—

''(1) REQUIREMENTS WITH RESPECT TO PREFERRED MEDICINES.—Negotiations of contracts with manufacturers with respect to covered outpatient prescription medicines under this part shall be conducted in a manner so that—

''(A) there is at least a contract for a medicine within each therapeutic class (as defined by the Secretary in consultation with such Medicare Prescription Medicine Advisory Committee);

''(B) if there is more than 1 medicine available in a therapeutic class, there are contracts for at least 2 medicines within such class unless determined clinically inappropriate in accordance with standards established by the Secretary; and

''(C) if there are more than 2 medicines available in a therapeutic class, there is a contract for at least 2 medicines within such class and a contract for generic medicine substitute if available unless determined clinically inappropriate in accordance with standards established by the Secretary.

''(2) ESTABLISHMENT OF THERAPEUTIC CLASSES.—The Secretary, in consultation with the Medicare Prescription Medicine Advisory Committee (established under section 1859H), shall establish for purposes of this part therapeutic classes and assign to such classes covered outpatient prescription medicines.

''(3) DISCLOSURE CONCERNING PREFERRED MEDICINES.—The Secretary shall provide, through pharmacy contractors or otherwise, for—

''(A) disclosure to current and prospective enrollees and to participating providers and pharmacies in each service area a list of the preferred medicines and differences in applicable cost-sharing between such medicines and nonpreferred medicines; and

''(B) advance disclosure to current enrollees and to participating providers and pharmacies in each service area of changes to any such list of preferred medicines and differences in applicable cost-sharing.

''(4) NO REVIEW.—The Secretary's establishment of therapeutic classes and the assignment of medicines to such classes and the Secretary's determination of what is a breakthrough medicine are not subject to administrative or judicial review.

''(c) CONFIDENTIALITY.—The Secretary shall ensure that the confidentiality of individually identifiable health information relating to the provision of benefits under this part is protected, consistent with the standards for the privacy of such information promulgated by the Secretary under the Health Insurance Portability and Accountability Act of 1996, or any subsequent comprehensive

and more protective set of confidentiality standards enacted into law or promulgated by the Secretary. Nothing in this subsection shall be construed as preventing the coordination of data with a State prescription medicine program so long as such program has in place confidentiality standards that are equal to or exceed the standards used by the Secretary.

''(d) FRAUD AND ABUSE SAFEGUARDS.—The Secretary, through the Office of the Inspector General, is authorized and directed to issue regulations establishing appropriate safeguards to prevent fraud and abuse under this part. Such safeguards, at a minimum, should include compliance programs, certification data, audits, and recordkeeping practices. In developing such regulations, the Secretary shall consult with the Attorney General and other law enforcement and regulatory agencies.

''FEDERAL MEDICARE PRESCRIPTION MEDICINE TRUST FUND

''SEC. 1859F. (a) ESTABLISHMENT.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Medicare Prescription Medicine Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part.

''(b) APPLICATION OF SMI TRUST FUND PROVISIONS.—The provisions of subsections (b) through (i) of section 1841 shall apply to this part and the Trust Fund in the same manner as they apply to part B and the Federal Supplementary Medical Insurance Trust Fund, respectively.

''COMPENSATION FOR EMPLOYERS COVERING RETIREE MEDICINE COSTS

''SEC. 1859G. (a) IN GENERAL.—In the case of an individual who is eligible to be enrolled under this part and is a participant or beneficiary under a group health plan that provides outpatient prescription medicine coverage to retirees the actuarial value of which is not less than the actuarial value of the coverage provided under this part, the Secretary shall make payments to such plan subject to the provisions of this section. Such payments shall be treated as payments under this part for purposes of sections 1859F and 1859C(e)(2). In applying the previous sentence with respect to section 1859C(e)(2), the amount of the Government contribution referred to in section 1844(a)(1)(A) is deemed to be equal to the aggregate amount of the payments made under this section.

''(b) REQUIREMENTS.—To receive payment under this section, a group health plan shall comply with the following requirements:

''(1) COMPLIANCE WITH REQUIREMENTS.—The group health plan shall comply with the requirements of this Act and other reasonable, necessary, and related requirements that are needed to administer this section, as determined by the Secretary.

''(2) ANNUAL ASSURANCES AND NOTICE BEFORE TERMINATION.—The sponsor of the plan shall—

''(A) annually attest, and provide such assurances as the Secretary may require, that the coverage offered under the group health plan meets the requirements of this section and will continue to meet such requirements for the duration of the sponsor's participation in the program under this section; and

''(B) guarantee that it will give notice to the Secretary and covered enrollees—

''(i) at least 120 days before terminating its plan, and

''(ii) immediately upon determining that the actuarial value of the prescription medicine benefit under the plan falls below the actuarial value required under subsection (a).

''(3) BENEFICIARY INFORMATION.—The sponsor of the plan shall report to the Secretary, for each calendar quarter for which it seeks a payment under this section, the names and social security numbers of all enrollees described in subsection (a) covered under such plan during such quarter and the dates (if less than the full quarter) during which each such individual was covered.

''(4) AUDITS.—The sponsor or plan seeking payment under this section shall agree to maintain, and to afford the Secretary access to, such records as the Secretary may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription medicine coverage, the accuracy of payments made, and such other matters as may be appropriate.

''(c) PAYMENT.—

''(1) IN GENERAL.—The sponsor of a group health plan that meets the requirements of subsection (b) with respect to a quarter in a calendar year shall be entitled to have payment made on a quarterly basis of the amount specified in paragraph (2) for each individual described in subsection (a) who during the quarter is covered under the plan and was not enrolled in the insurance program under this part.

''(2) AMOUNT OF PAYMENT.—

''(A) IN GENERAL.—The amount of the payment for a quarter shall approximate, for each such covered individual, ⅔ of the sum of the monthly Government contribution amounts (computed under subparagraph (B)) for each of the 3 months in the quarter.

''(B) COMPUTATION OF MONTHLY GOVERNMENT CONTRIBUTION AMOUNT.—For purposes of subparagraph (A), the monthly Government contribution amount for a month in a year is equal to the amount by which—

''(i) 1/12 of the average per capita aggregate expenditures, as estimated under section 1859D(c)(8) for the year involved; exceeds

''(ii) the monthly premium rate under section 1859D(d) for the month involved.

''MEDICARE PRESCRIPTION MEDICINE ADVISORY COMMITTEE

''SEC. 1859H. (a) ESTABLISHMENT OF COMMITTEE.—There is established a Medicare Prescription Medicine Advisory Committee (in this section referred to as the 'Committee').

''(b) FUNCTIONS OF COMMITTEE.—The Committee shall advise the Secretary on policies related to—

''(1) the development of guidelines for the implementation and administration of the outpatient prescription medicine benefit program under this part; and

''(2) the development of—

''(A) standards required of pharmacy contractors under section 1859D(c)(5) for determining if a medicine is as effective for an enrollee or has a significant adverse effect on an enrollee under this part;

''(B) standards for—

''(i) defining therapeutic classes;

''(ii) adding new therapeutic classes;

''(iii) assigning to such classes covered outpatient prescription medicines; and

''(iv) identifying breakthrough medicines;

''(C) procedures to evaluate the bids submitted by pharmacy contractors under this part;

''(D) procedures for negotiations, and standards for entering into contracts, with manufacturers, including identifying medicines or classes of medicines where Secretarial negotiation is most likely to yield savings under this part significantly above those that which could be achieved by a pharmacy contractor; and

''(E) procedures to ensure that pharmacy contractors with a contract under this part are in compliance with the requirements under this part.

For purposes of this part, a medicine is a 'breakthrough medicine' if the Secretary, in consultation with the Committee, determines it is a new product that will make a significant and major improvement by reducing physical or mental illness, reducing mortality, or reducing disability, and that no other product is available to beneficiaries that achieves similar results for the same condition. The Committee may consider cost-effectiveness in establishing standards for defining therapeutic classes and assigning drugs to such classes under subparagraph (B).

''(c) STRUCTURE AND MEMBERSHIP OF THE COMMITTEE.—

''(1) STRUCTURE.—The Committee shall be composed of 19 members who shall be appointed by the Secretary.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The members of the Committee shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Committee.

''(B) SPECIFIC MEMBERS.—Of the members appointed under paragraph (1)—

''(i) 5 shall be chosen to represent practicing physicians, 2 of whom shall be gerontologists;

''(ii) 2 shall be chosen to represent practicing nurse practitioners;

''(iii) 4 shall be chosen to represent practicing pharmacists;

''(iv) 1 shall be chosen to represent the Centers for Medicare & Medicaid Services;

''(v) 4 shall be chosen to represent actuaries, pharmacoeconomists, researchers, and other appropriate experts;

''(vi) 1 shall be chosen to represent emerging medicine technologies;

''(vii) 1 shall be chosen to represent the Food and Drug Administration; and

''(viii) 1 shall be chosen to represent individuals enrolled under this part.

''(d) TERMS OF APPOINTMENT.—Each member of the Committee shall serve for a term determined appropriate by the Secretary. The terms of service of the members initially appointed shall begin on January 1, 2004.

''(e) CHAIRPERSON.—The Secretary shall designate a member of the Committee as Chairperson. The term as Chairperson shall be for a 1-year period.

''(f) COMMITTEE PERSONNEL MATTERS.—

''(1) MEMBERS.—

''(A) COMPENSATION.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee. All members of the Committee who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

''(B) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

''(2) STAFF.—The Committee may appoint such personnel as the Committee considers appropriate.

''(g) OPERATION OF THE COMMITTEE.—

''(1) MEETINGS.—The Committee shall meet at the call of the Chairperson (after consultation with the other members of the Committee) not less often than quarterly to consider a specific agenda of issues, as determined by the Chairperson after such consultation.

''(2) QUORUM.—Ten members of the Committee shall constitute a quorum for purposes of conducting business.

''(h) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

''(i) TRANSFER OF PERSONNEL, RESOURCES, AND ASSETS.—For purposes of carrying out its duties, the Secretary and the Committee may provide for the transfer to the Committee of such civil service personnel in the employ of the Department of Health and Human Services (including the Centers for Medicare & Medicaid Services), and such resources and assets of the Department used in carrying out this title, as the Committee requires.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.''.

(b) APPLICATION OF GENERAL EXCLUSIONS FROM COVERAGE.—

(1) APPLICATION TO PART D.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended in the matter preceding paragraph (1) by striking ''part A or part B'' and inserting ''part A, B, or D''.

(2) PRESCRIPTION MEDICINES NOT EXCLUDED FROM COVERAGE IF APPROPRIATELY PRESCRIBED.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)) is amended—

(A) in subparagraph (H), by striking ''and'' at the end;

(B) in subparagraph (I), by striking the semicolon at the end and inserting '', and''; and

(C) by adding at the end the following new subparagraph:

''(J) in the case of prescription medicines covered under part D, which are not prescribed in accordance with such part;''.

(c) CONFORMING AMENDMENTS.—(1) Part C of title XVIII is amended—

(A) in section 1851(a)(2)(B) (42 U.S.C. 1395w–21(a)(2)(B)), by striking ''1859(b)(3)'' and inserting ''1858(b)(3)'';

(B) in section 1851(a)(2)(C) (42 U.S.C. 1395w–21(a)(2)(C)), by striking ''1859(b)(2)'' and inserting ''1858(b)(2)'';

(C) in section 1852(a)(1) (42 U.S.C. 1395w–22(a)(1)), by striking ''1859(b)(3)'' and inserting ''1858(b)(3)'';

(D) in section 1852(a)(3)(B)(ii) (42 U.S.C. 1395w–22(a)(3)(B)(ii)), by striking ''1859(b)(2)(B)'' and inserting ''1858(b)(2)(B)'';

(E) in section 1853(a)(1)(A) (42 U.S.C. 1395w–23(a)(1)(A)), by striking ''1859(e)(4)'' and inserting ''1858(e)(4)''; and

(F) in section 1853(a)(3)(D) (42 U.S.C. 1395w–23(a)(3)(D)), by striking ''1859(e)(4)'' and inserting ''1858(e)(4)''.

(2) Section 1171(a)(5)(D) (42 U.S.C. 1320d(a)(5)(D)) is amended by striking ''or (C)'' and inserting ''(C), or (D)''.

SEC. 102. PROVISION OF MEDICARE OUTPATIENT PRESCRIPTION MEDICINE COVERAGE UNDER THE MEDICARE+CHOICE PROGRAM.

(a) REQUIRING AVAILABILITY OF AN ACTUARIALLY EQUIVALENT PRESCRIPTION MEDICINE BENEFIT.—Section 1851 (42 U.S.C. 1395w–21) is amended by adding at the end the following new subsection:

''(j) AVAILABILITY OF PRESCRIPTION MEDICINE BENEFITS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this part, each Medicare+Choice organization that makes available a Medicare+Choice plan described in section 1851(a)(2)(A) shall make available such a plan that offers coverage of covered outpatient prescription medicines that is at least actuarially equivalent to the benefits provided under part D. Information respecting such benefits shall be made available in the same manner as information on other benefits provided under this part is made available. Nothing in this paragraph shall be construed as requiring the offering of such coverage separate from coverage that includes benefits under parts A and B.

''(2) TREATMENT OF PRESCRIPTION MEDICINE ENROLLEES.—In the case of a Medicare+Choice eligible individual who is enrolled under part D, the benefits described in paragraph (1) shall be treated in the same manner as benefits described in part B for purposes of coverage and payment and any reference in this part to the Federal Supplementary Medical Insurance Trust Fund shall be deemed, with respect to such benefits, to be a reference to the Federal Medicare Prescription Medicine Trust Fund.''.

(b) APPLICATION OF QUALITY STANDARDS.—Section 1852(e)(2)(A) (42 U.S.C. 1395w–22(e)(2)(A)) is amended—

(1) by striking ''and'' at the end of clause (xi);

(2) by striking the period at the end of clause (xii) and inserting '', and''; and

(3) by adding at the end the following new clause:

''(xiii) comply with the standards, and apply the programs, under section 1859B(b) for covered outpatient prescription medicines under the plan.''.

(c) PAYMENT SEPARATE FROM PAYMENT FOR PART A AND B BENEFITS.—Section 1853 (42 U.S.C. 1395w–23) is amended—

(1) in subsection (a)(1)(A), by striking ''and (i)'' and inserting ''(i), and (j)''; and

(2) by adding at the end the following new subsection:

''(j) PAYMENT FOR PRESCRIPTION MEDICINE COVERAGE OPTION.—

''(1) IN GENERAL.—In the case of a Medicare+Choice plan that provides prescription medicine benefits described in section 1851(j)(1), the amount of payment otherwise made to the Medicare+Choice organization offering the plan shall be increased by the amount described in paragraph (2). Such payments shall be made in the same manner and time as the amount otherwise paid, but such amount shall be payable from the Federal Medicare Prescription Medicine Trust Fund.

''(2) AMOUNT.—The amount described in this paragraph is the monthly Government contribution amount computed under section 1859G(c)(2)(B), but subject to adjustment under paragraph (3). Such amount shall be uniform geographically and shall not vary based on the Medicare+Choice payment area involved.

''(3) RISK ADJUSTMENT.—The Secretary shall establish a methodology for the adjustment of the payment amount under this subsection in a manner that takes into account the relative risks for use of outpatient prescription medicines by Medicare+Choice enrollees. Such methodology shall be designed in a manner so that the total payments under this title (including part D) are not changed as a result of the application of such methodology.''.

(d) SEPARATE APPLICATION OF ADJUSTED COMMUNITY RATE (ACR).—Section 1854 (42 U.S.C. 1395w–24) is amended by adding at the end the following:

''(i) APPLICATION TO PRESCRIPTION MEDICINE COVERAGE.—The Secretary shall apply the previous provisions of this section (including the computation of the adjusted community rate) separately with respect to prescription medicine benefits described in section 1851(j)(1).''.

(f) CONFORMING AMENDMENTS.—

(1) Section 1851 (42 U.S.C. 1395w–21) is amended—

(A) in subsection (a)(1)(A), by striking ''parts A and B'' and inserting ''parts A, B, and D''; and

(B) in subsection (i) by inserting ''(and, if applicable, part D)'' after ''parts A and B''.

(2) Section 1852(a)(1)(A) (42 U.S.C. 1395w–22(a)(1)(A)) is amended by inserting ''(and under part D to individuals also enrolled under such part)'' after ''parts A and B''.

(3) Section 1852(d)(1) (42 U.S.C. 1395w–22(d)(1)) is amended—

(A) by striking ''and'' at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

(C) by adding at the end the following:

''(F) the plan for part D benefits guarantees coverage of any specifically named prescription medicine for an enrollee to the extent that it would be required to be covered under part D.

In carrying out subparagraph (F), a Medicare+Choice organization has the same authority to enter into contracts with respect to coverage of preferred medicines as the Secretary has under part D, but subject to an independent contractor appeal or other appeal process that would be applicable to determinations by such a pharmacy contractor consistent with section 1859D(c)(5).''.

(e) LIMITATION ON COST-SHARING.—Section 1854(e) (42 U.S.C. 1395w–24(e)) is amended by adding at the end the following new paragraph:

''(5) LIMITATION ON COST-SHARING.—In no event may a Medicare+Choice organization include a requirement that an enrollee pay cost-sharing in excess of the cost-sharing otherwise permitted under part D.''.

SEC. 103. MEDIGAP REVISIONS.

(a) REQUIRED COVERAGE OF COVERED OUTPATIENT PRESCRIPTION MEDICINES.—Section 1882(p)(2)(B) (42 U.S.C. 1395ss(p)(2)(B)) is amended by inserting before ''and'' at the end the following: ''including a requirement that an appropriate number of policies provide coverage of medicines which complements but does not duplicate the medicine benefits that beneficiaries are otherwise eligible for benefits under part D of this title (with the Secretary and the National Association of Insurance Commissioners determining the appropriate level of medicine benefits that each benefit package must provide and ensuring that policies providing such coverage are affordable for beneficiaries;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2005.

(c) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the amendments made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 9 months after the date of enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendments made by this section, such revised regulation

incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section; or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section; but

(ii) having a legislature which is not scheduled to meet in 2003 in a legislative session in which such legislation may be considered;

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 2003. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 104. TRANSITIONAL ASSISTANCE FOR LOW INCOME BENEFICIARIES.

(a) QMB COVERAGE OF PREMIUMS AND COST-SHARING.—Section 1905(p)(3) (42 U.S.C. 1396d(p)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking ''and'' at the end of clause (i),

(B) by adding ''and'' at the end of clause (ii), and

(C) by adding at the end the following new clause:

''(iii) premiums under section 1859D(d).'';

(2) in subparagraph (B), by inserting ''and section 1859D(c)(3)(B) and 1859D(c)(3)(C)(i)'' after ''1813''; and

(3) in subparagraph (C), by striking ''and section 1833(b)'' and inserting '', section 1833(b), and section 1859D(c)(2)''.

(b) EXPANDED SLMB ELIGIBILITY.—Section 1902(a)(10)(E) (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) by striking ''and'' at the end of clause (iii);

(2) by adding ''and'' at the end of clause (iv); and

(3) by adding at the end the following new clause:

''(v)(I) for making medical assistance available for medicare cost-sharing described in section 1905(p)(3)(A)(iii) and medicare cost-sharing described in section 1905(p)(3)(B) and section 1905(p)(3)(C) but only insofar as it relates to benefits provided under part D of title XVIII, subject to section 1905(p)(4), for individuals (other than qualified medicare beneficiaries) who are enrolled under part D of title XVIII and are described in section 1905(p)(1)(B) or would be so described but for the fact that their income exceeds 100 percent, but is less than 150 percent, of the official poverty line (referred to in such section) for a family of the size involved;

''(II) subject to section 1905(p)(4), for individuals (other than qualified medicare beneficiaries and individuals described in subclause (I)) who are enrolled under part D of title XVIII and would be described in section 1905(p)(1)(B) but for the fact that their income exceeds 150 percent, but is less than 175 percent, of the official poverty line (referred to in such section) for a family of the size involved, for making medical assistance available for medicare cost-sharing described in section 1905(p)(3)(A)(iii) and medicare cost-sharing described in section 1905(p)(3)(B) and section 1905(p)(3)(C) but only insofar as it relates to benefits provided under part D of title XVIII, and the assistance for medicare cost-sharing described in section 1905(p)(3)(A)(iii) is reduced (on a sliding scale based on income) from 100 percent to 0 percent as the income increases from 150 percent to 175 percent of such poverty line;''.

(c) FEDERAL FINANCING.—The third sentence of section 1905(b) (42 U.S.C. 1396d(b)) is amended by inserting before the period at the end the following: ''and with respect to amounts expended that are attributable to section 1902(a)(10)(E)(v) (other than for individuals described in section 1905(p)(1)(B))''.

(d) TREATMENT OF TERRITORIES.—

(1) IN GENERAL.—Section 1905(p) (42 U.S.C. 1396d(p)) is amended—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following new paragraph:

''(5)(A) In the case of a State, other than the 50 States and the District of Columbia—

''(i) the provisions of paragraph (3) insofar as they relate to section 1859D and the provisions of section 1902(a)(10)(E)(v) shall not apply to residents of such State; and

''(ii) if the State establishes a plan described in subparagraph (B) (for providing medical assistance with respect to the provision of prescription medicines to medicare beneficiaries), the amount otherwise determined under section 1108(f) (as increased under section 1108(g)) for the State shall be increased by the amount specified in subparagraph (C).

''(B) The plan described in this subparagraph is a plan that—

''(i) provides medical assistance with respect to the provision of covered outpatient medicines (as defined in section 1859D(b)) to low-income medicare beneficiaries; and

''(ii) assures that additional amounts received by the State that are attributable to the operation of this paragraph are used only for such assistance.

''(C)(i) The amount specified in this subparagraph for a State for a year is equal to the product of—

''(I) the aggregate amount specified in clause (ii); and

''(II) the amount specified in section 1108(g)(1) for that State, divided by the sum of the amounts specified in such section for all such States.

''(ii) The aggregate amount specified in this clause for—

''(I) 2005, is equal to $25,000,000; or

''(II) a subsequent year, is equal to the aggregate amount specified in this clause for the previous year increased by annual percentage increase specified in section 1859D(c)(8)(B) for the year involved.

''(D) The Secretary shall submit to Congress a report on the application of this paragraph and may include in the report such recommendations as the Secretary deems appropriate.''.

(2) CONFORMING AMENDMENT.—Section 1108(f) (42 U.S.C. 1308(f)) is amended by inserting ''and section 1905(p)(5)(A)(ii)'' after ''Subject to subsection (g)''.

(e) APPLICATION OF COST-SHARING.—Section 1902(n)(2) (42 U.S.C. 1396a(n)(2)) is amended by adding at the end the following: ''The previous sentence shall not apply to medicare cost-sharing relating to benefits under part D of title XVIII.''.

(f) EFFECTIVE DATE.—The amendments made by this section apply to medical assistance for premiums and cost-sharing incurred on or after January 1, 2005, with regard to whether regulations to implement such amendments are promulgated by such date.

SEC. 105. EXPANSION OF MEMBERSHIP AND DUTIES OF MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXPANSION OF MEMBERSHIP.—

(1) IN GENERAL.—Section 1805(c) (42 U.S.C. 1395b–6(c)) is amended—

(A) in paragraph (1), by striking ''17'' and inserting ''19''; and

(B) in paragraph (2)(B), by inserting ''experts in the area of pharmacology and prescription medicine benefit programs,'' after ''other health professionals,''.

(2) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(A) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b–6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under paragraph (1)(A) are as follows:

(i) One member shall be appointed for 1 year.

(ii) One member shall be appointed for 2 years.

(B) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2003.

(b) EXPANSION OF DUTIES.—Section 1805(b)(2) (42 U.S.C. 1395b–6(b)(2)) is amended by adding at the end the following new subparagraph:

''(D) PRESCRIPTION MEDICINE BENEFIT PROGRAM.—Specifically, the Commission shall review, with respect to the prescription medicine benefit program under part D, the following:

''(i) The methodologies used for the management of costs and utilization of prescription medicines.

''(ii) The prices negotiated and paid, including trends in such prices and applicable discounts and comparisons with prices under section 1859E(a)(2)(E).

''(iii) The relationship of pharmacy acquisition costs to the prices so negotiated and paid.

''(iv) The methodologies used to ensure access to covered outpatient prescription medicines and to ensure quality in the appropriate dispensing and utilization of such medicines.

''(v) The impact of the program on promoting the development of breakthrough medicines.''.

TITLE II—MEDICARE+CHOICE REVITALIZATION AND MEDICARE+CHOICE COMPETITION PROGRAM

SEC. 201. MEDICARE+CHOICE IMPROVEMENTS.

(a) EQUALIZING PAYMENTS BETWEEN FEE-FOR-SERVICE AND MEDICARE+CHOICE.—

(1) IN GENERAL.—Section 1853(c)(1) (42 U.S.C. 1395w–23(c)(1)) is amended by adding at the end the following:

''(D) BASED ON 100 PERCENT OF FEE-FOR-SERVICE COSTS.—

''(i) IN GENERAL.—For 2003 and 2004, the adjusted average per capita cost for the year involved, determined under section 1876(a)(4) for the Medicare+Choice payment area for services covered under parts A and B for individuals entitled to benefits under part A and enrolled under part B who are not enrolled in a Medicare+Choice plan under this part for the year, but adjusted to exclude costs attributable to payments under section 1886(h).

''(ii) INCLUSION OF COSTS OF VA AND DOD MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the adjusted average per capita cost under clause (i) for a year, such cost shall be adjusted to include the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Veterans Affairs or the Department of Defense.''.

(2) CONFORMING AMENDMENT.—Such section is further amended, in the matter before subparagraph (A), by striking ''or (C)'' and inserting ''(C), or (D)''.

(b) REVISION OF BLEND.—

(1) REVISION OF NATIONAL AVERAGE USED IN CALCULATION OF BLEND.—Section 1853(c)(4)(B)(i)(II) (42 U.S.C. 1395w–23(c)(4)(B)(i)(II)) is amended by inserting ''who (with respect to determinations for 2003 and for 2004) are enrolled in a Medicare+Choice plan'' after ''the average number of medicare beneficiaries''.

(2) CHANGE IN BUDGET NEUTRALITY.—Section 1853(c) (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1)(A), by inserting ''(for a year before 2003)'' after ''multiplied''; and

(B) in paragraph (5), by inserting ''(before 2003)'' after ''for each year''.

(c) REVISION IN MINIMUM PERCENTAGE INCREASE FOR 2003 AND 2004.—Section 1853(c)(1)(C) (42 U.S.C. 1395w–23(c)(1)(C)) is amended by striking clause (iv) and inserting the following:

''(iv) For 2002, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for 2001.

''(v) For 2003 and 2004, 103 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

''(iv) For 2005 and each succeeding year, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.''.

(d) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES IN CALCULATION OF MEDICARE+CHOICE PAYMENT RATES.—Section 1853(c)(3) (42 U.S.C. 1395w–23(c)(3)) is amended—

(1) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (E)'', and

(2) by adding at the end the following new subparagraph:

''(E) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the area-specific Medicare+Choice capitation rate under subparagraph (A) for a year (beginning with 2003), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to include in the rate the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Defense or the Department of Veterans Affairs.''.

(e) ANNOUNCEMENT OF REVISED MEDICARE+CHOICE PAYMENT RATES.—Within 2 weeks after the date of the enactment of this Act, the Secretary shall determine, and shall announce (in a manner intended to provide notice to interested parties) Medicare+Choice capitation rates under section 1853 of the Social Security Act (42 U.S.C. 1395w–23) for 2003, revised in accordance with the provisions of this section.

(f) MEDPAC STUDY OF AAPCC.—

(1) STUDY.—The Medicare Payment Advisory Commission shall conduct a study that assesses the method used for determining the adjusted average per capita cost (AAPCC) under section 1876(a)(4) of the Social Security Act (42 U.S.C. 1395mm(a)(4)). Such study shall examine—

(A) the bases for variation in such costs between different areas, including differences in input prices, utilization, and practice patterns;

(B) the appropriate geographic area for payment under the Medicare+Choice program under part C of title XVIII of such Act; and

(C) the accuracy of risk adjustment methods in reflecting differences in costs of providing care to different groups of beneficiaries served under such program.

(2) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include recommendations regarding changes in the methods for computing the adjusted average per capita cost among different areas.

(g) APPLYING LIMITATIONS ON BALANCE BILLING TO MEDICARE MSAs.—Section 1852(k)(1) (42 U.S.C. 1395w–22(k)(1)) is amended by inserting ''or with an organization offering a MSA plan'' after ''section 1851(a)(2)(A)''.

(h) REPORT ON IMPACT OF INCREASED FINANCIAL ASSISTANCE TO MEDICARE+CHOICE PLANS.—Not later than July 1, 2003, the Secretary shall submit to Congress a report that describes the impact of additional financing provided under this Act and other Acts (including the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 and BIPA) on the availability of Medicare+Choice plans in different areas and its impact on lowering premiums and increasing benefits under such plans.

SEC. 202. MAKING PERMANENT CHANGE IN MEDICARE+CHOICE REPORTING DEADLINES AND ANNUAL, COORDINATED ELECTION PERIOD.

(a) CHANGE IN REPORTING DEADLINE.—Section 1854(a)(1) (42 U.S.C. 1395w–24(a)(1)), as amended by section 532(b)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking ''2002, 2003, and 2004 (or July 1 of each other year)'' and inserting ''2002 and each subsequent year (or July 1 of each year before 2002)''.

(b) DELAY IN ANNUAL, COORDINATED ELECTION PERIOD.—Section 1851(e)(3)(B) (42 U.S.C. 1395w–21(e)(3)(B)), as amended by section 532(c)(1)(A) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking ''and after 2005, the month of November before such year and with respect to 2003, 2004, and 2005'' and inserting '', the month of November before such year and with respect to 2003 and any subsequent year''.

(c) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—Section 1853(b)(1) (42 U.S.C. 1395w–23(b)(1)), as amended by section 532(d)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking ''and after 2005 not later than March 1 before the calendar year concerned and for 2004 and 2005'' and inserting ''not later than March 1 before the calendar year concerned and for 2004 and each subsequent year''.

(d) REQUIRING PROVISION OF AVAILABLE INFORMATION COMPARING PLAN OPTIONS.—The first sentence of section 1851(d)(2)(A)(ii) (42 U.S.C. 1395w–21(d)(2)(A)(ii)) is amended by inserting before the period the following: ''to the extent such information is available at the time of preparation of materials for the mailing''.

SEC. 203. SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.

(a) TREATMENT AS COORDINATED CARE PLAN.—Section 1851(a)(2)(A) (42 U.S.C. 1395w–21(a)(2)(A)) is amended by adding at the end the following new sentence: ''Specialized Medicare+Choice plans for special needs beneficiaries (as defined in section 1859(b)(4)) may be any type of coordinated care plan.''.

(b) SPECIALIZED MEDICARE+CHOICE PLAN FOR SPECIAL NEEDS BENEFICIARIES DEFINED.—Section 1859(b) (42 U.S.C. 1395w–29(b)) is amended by adding at the end the following new paragraph:

''(4) SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.—

''(A) IN GENERAL.—The term 'specialized Medicare+Choice plan for special needs beneficiaries' means a Medicare+Choice plan that exclusively serves special needs beneficiaries (as defined in subparagraph (B)).

''(B) SPECIAL NEEDS BENEFICIARY.—The term 'special needs beneficiary' means a Medicare+Choice eligible individual who—

''(i) is institutionalized (as defined by the Secretary);

''(ii) is entitled to medical assistance under a State plan under title XIX; or

''(iii) meets such requirements as the Secretary may determine would benefit from enrollment in such a specialized Medicare+Choice plan described in subparagraph (A) for individuals with severe or disabling chronic conditions.''.

(c) RESTRICTION ON ENROLLMENT PERMITTED.—Section 1859 (42 U.S.C. 1395w–29) is amended by adding at the end the following new subsection:

''(f) RESTRICTION ON ENROLLMENT FOR SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.—In the case of a specialized Medicare+Choice plan (as defined in subsection (b)(4)), notwithstanding any other provision of this part and in accordance with regulations of the Secretary and for periods before January 1, 2007, the plan may restrict the enrollment of individuals under the plan to individuals who are within one or more classes of special needs beneficiaries.''.

(d) REPORT TO CONGRESS.—Not later than December 31, 2005, the Secretary shall submit to Congress a report that assesses the impact of specialized Medicare+Choice plans for special needs beneficiaries on the cost and quality of services provided to enrollees. Such report shall include an assessment of the costs and savings to the medicare program as a result of amendments made by subsections (a), (b), and (c).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall take effect upon the date of the enactment of this Act.

(2) DEADLINE FOR ISSUANCE OF REQUIREMENTS FOR SPECIAL NEEDS BENEFICIARIES; TRANSITION.—No later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to establish requirements for special needs beneficiaries under section 1859(b)(4)(B)(iii) of the Social Security Act, as added by subsection (b).

SEC. 204. EXTENSION OF REASONABLE COST AND SHMO CONTRACTS.

(a) REASONABLE COST CONTRACTS.—

(1) IN GENERAL.—Section 1876(h)(5)(C) (42 U.S.C. 1395mm(h)(5)(C)) is amended—

(A) by inserting ''(i)'' after ''(C)'';

(B) by inserting before the period the following: '', except (subject to clause (ii)) in the case of a contract for an area which is not covered in the service area of 1 or more coordinated care Medicare+Choice plans under part C''; and

(C) by adding at the end the following new clause:

''(ii) In the case in which—

''(I) a reasonable cost reimbursement contract includes an area in its service area as of a date that is after December 31, 2003;

''(II) such area is no longer included in such service area after such date by reason of the operation of clause (i) because of the inclusion of such area within the service area of a Medicare+Choice plan; and

''(III) all Medicare+Choice plans subsequently terminate coverage in such area;

such reasonable cost reimbursement contract may be extended and renewed to cover such area (so long as it is not included in the service area of any Medicare+Choice plan).''.

(2) STUDY.—The Secretary shall conduct a study of an appropriate transition for plans offered under reasonable cost contracts under section 1876 of the Social Security Act on and after January 1, 2005. Such a transition may take into account whether there are one or more coordinated care Medicare+Choice plans being offered in the areas involved. Not later than February 1, 2004, the Secretary shall submit to Congress a report on such study and shall include recommendations regarding any changes in the amendment made by paragraph (1) as the Secretary determines to be appropriate.

(b) EXTENSION OF SOCIAL HEALTH MAINTENANCE ORGANIZATION (SHMO) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 4018(b)(1) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking ''the date that is 30 months after the date that the Secretary submits to Congress the report described in section 4014(c) of the Balanced Budget Act of 1997'' and inserting ''December 31, 2004''.

(2) SHMOS OFFERING MEDICARE+CHOICE PLANS.—Nothing in such section 4018 shall be construed as preventing a social health maintenance organization from offering a Medicare+Choice plan under part C of title XVIII of the Social Security Act.

SEC. 205. CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT.

(a) IN GENERAL.—Section 1851(e)(2) (42 U.S.C. 1395w–21(e)(2)) is amended to read as follows:

''(2) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT.—Subject to paragraph (5), a Medicare+Choice eligible individual may change the election under subsection (a)(1) at any time.''.

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE+CHOICE.—Section 1851(e) (42 U.S.C. 1395w–21(e)) is amended—

(A) in paragraph (4)—

(i) by striking ''Effective as of January 1, 2002, an'' and inserting ''An'';

(ii) by striking ''other than during an annual, coordinated election period'';

(iii) by inserting ''in a special election period for such purpose'' after ''make a new election under this section''; and

(iv) by striking the second sentence; and

(B) in paragraphs (5)(B) and (6)(A), by striking ''the first sentence of''.

(2) PERMITTING ENROLLMENT IN MEDIGAP WHEN M+C PLANS REDUCE BENEFITS OR WHEN PROVIDER LEAVES A M+C PLAN.—

(A) IN GENERAL.—Clause (ii) of section 1882(s)(3)(B) (42 U.S.C. 1395ss(s)(3)(B)) is amended—

(i) by inserting ''(I)'' after ''(ii)'';

(ii) by striking ''under the first sentence of'' each place it appears and inserting ''during a special election period provided for under'';

(iii) by inserting ''the circumstances described in subclause (II) are present or'' before ''there are circumstances''; and

(iv) by adding at the end the following new subclause:

''(II) The circumstances described in this subclause are, with respect to an individual enrolled in a Medicare+Choice plan, a reduction in benefits (including an increase in cost-sharing) offered under the Medicare+Choice plan from the previous year or a provider of services or physician who serves the individual no longer participating in the plan (other than because of good cause relating to quality of care under the plan).''.

(B) CONFORMING AMENDMENT.—Clause (iii) of such section is amended—

(i) by inserting ''the circumstances described in clause (ii)(II) are met or'' after ''policy described in subsection (t), and''; and

(ii) by striking ''under the first sentence of'' and inserting ''during a special election period provided for under''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2003, and shall apply to reductions in benefits and changes in provider participation occurring on or after such date.

SEC. 206. LIMITATION ON MEDICARE+CHOICE COST-SHARING.

(a) IN GENERAL.—Section 1852(a) (42 U.S.C. 1395w–22(a)) is amended by adding at the end the following new paragraph:

''(6) LIMITATION ON COST-SHARING.—

''(A) IN GENERAL.—Subject to subparagraph (B), in no case shall the cost-sharing with respect to an item or service under a Medicare+Choice plan exceed the cost-sharing otherwise applicable under parts A and B to an individual who is not enrolled in a Medicare+Choice plan under this part.

''(B) PERMITTING FLAT COPAYMENTS.—Subparagraph (A) shall not be construed as preventing the application of flat dollar copayment amounts (in place of a percentage coinsurance), such as a fixed copayment for a doctor's visit, so long as such amounts are reasonable and appropriate and do not adversely affect access to items and services (as determined by the Secretary).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as of January 1, 2003.

SEC. 207. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

The last sentence of section 9215(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 1395b–1 note), as previously amended, is amended by striking ''December 31, 2004, but only with respect to'' and all that follows and inserting ''December 31, 2009, but only with respect to individuals who reside in the city in which the project is operated and so long as the total number of individuals participating in the project does not exceed the number of such individuals participating as of January 1, 1996.''.

TITLE III—RURAL HEALTH CARE IMPROVEMENTS

SEC. 301. REFERENCE TO FULL MARKET BASKET INCREASE FOR SOLE COMMUNITY HOSPITALS.

For provision eliminating any reduction from full market basket in the update for inpatient hospital services for sole community hospitals, see section 401.

SEC. 302. ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) TREATMENT FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

(a) BLENDING OF PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended by adding at the end the following new clause:

''(xiv)(I) In the case of discharges in a fiscal year beginning on or after October 1, 2002, subject to subclause (II), there shall be substituted for the disproportionate share adjustment percentage otherwise determined under clause (iv) (other than subclause (I)) or under clause (viii), (x), (xi), (xii), or (xiii), the old blend proportion (specified under subclause (III)) of the disproportionate share adjustment percentage otherwise determined under the respective clause and 100 percent minus such old blend proportion of the disproportionate share adjustment percentage determined under clause (vii) (relating to large, urban hospitals).

''(II) Under subclause (I), the disproportionate share adjustment percentage shall not exceed 10 percent for a hospital that is not classified as a rural referral center under subparagraph (C).

''(III) For purposes of subclause (I), the old blend proportion for fiscal year 2003 is 66⅔ percent, for fiscal year 2004 is 33⅓ percent subsequent year, and for each fiscal year beginning with 2005 is 0 percent.''.

(2) CONFORMING AMENDMENTS.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in each of subclauses (II), (III), (IV), (V), and (VI) of clause (iv), by inserting ''subject to clause (xiv) and'' before ''for discharges occurring'';

(B) in clause (viii), by striking ''The formula'' and inserting ''Subject to clause (xiv), the formula''; and

(C) in each of clauses (x), (xi), (xii), and (xiii), by striking ''For purposes'' and inserting ''Subject to clause (xiv), for purposes''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to discharges occurring on or after October 1, 2002.

SEC. 303. 2-YEAR PHASED-IN INCREASE IN THE STANDARDIZED AMOUNT IN RURAL AND SMALL URBAN AREAS TO ACHIEVE A SINGLE, UNIFORM STANDARDIZED AMOUNT.

Section 1886(d)(3)(A)(iv) (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(1) by striking ''(iv) For discharges'' and inserting ''(iv)(I) Subject to the succeeding provisions of this clause, for discharges''; and

(2) by adding at the end the following new subclauses:

''(II) For discharges occurring during fiscal year 2003, the average standardized amount for hospitals located other than in a large urban area shall be increased by ½ of the difference between the average standardized amount determined under subclause (I) for hospitals located in large urban areas for such fiscal year and such amount determined (without regard to this subclause) for other hospitals for such fiscal year.

''(III) For discharges occurring in a fiscal year beginning with fiscal year 2004, the Secretary shall compute an average standardized amount for hospitals located in any area within the United States and within each region equal to the average standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2005, for hospitals located in any area) increased by the applicable percentage increase under subsection (b)(3)(B)(i).''.

SEC. 304. MORE FREQUENT UPDATE IN WEIGHTS USED IN HOSPITAL MARKET BASKET.

(a) MORE FREQUENT UPDATES IN WEIGHTS.—After revising the weights used in the hospital market basket under section 1886(b)(3)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(iii)) to reflect the most current data available, the Secretary shall establish a frequency for revising such weights in such market basket to reflect the most current data available more frequently than once every 5 years.

(b) REPORT.—Not later than October 1, 2003, the Secretary shall submit a report to Congress on the frequency established under subsection (a), including an explanation of the reasons for, and options considered, in determining such frequency.

SEC. 305. IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

(a) REINSTATEMENT OF PERIODIC INTERIM PAYMENT (PIP).—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (C);

(2) by adding ''and'' at the end of subparagraph (D); and

(3) by inserting after subparagraph (D) the following new subparagraph:

''(E) inpatient critical access hospital services;''.

(b) CONDITION FOR APPLICATION OF SPECIAL PHYSICIAN PAYMENT ADJUSTMENT.—Section 1834(g)(2) (42 U.S.C. 1395m(g)(2)) is amended by adding after and below subparagraph (B) the following:

''The Secretary may not require, as a condition for applying subparagraph (B) with respect to a critical access hospital, that each physician providing professional services in the hospital must assign billing rights with respect to such services, except that such subparagraph shall not apply to those physicians who have not assigned such billing rights.''.

(c) FLEXIBILITY IN BED LIMITATION FOR HOSPITALS WITH STRONG SEASONAL CENSUS FLUCTUATIONS.—Section 1820 (42 U.S.C. 1395i–4) is amended—

(1) in subsection (c)(2)(B)(iii), by inserting ''subject to paragraph (3)'' after ''(iii) provides'';

(2) by adding at the end of subsection (c) the following new paragraph:

''(3) INCREASE IN MAXIMUM NUMBER OF BEDS FOR HOSPITALS WITH STRONG SEASONAL CENSUS FLUCTUATIONS.—

''(A) IN GENERAL.—In the case of a hospital that demonstrates that it meets the standards established under subparagraph (B), the bed limitations otherwise applicable under paragraph (2)(B)(iii) and subsection (f) shall be increased by 5 beds.

''(B) STANDARDS.—The Secretary shall specify standards for determining whether a critical access hospital has sufficiently strong seasonal variations in patient admissions to justify the increase in bed limitation provided under subparagraph (A).''; and

(3) in subsection (f), by adding at the end the following new sentence: ''The limitations in numbers of beds under the first sentence are subject to adjustment under subsection (c)(3).''.

(d) 5-YEAR EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS FOR GRANT PROGRAM.—Section 1820(j) (42 U.S.C. 1395i–4(j)) is amended by striking ''through 2002'' and inserting ''through 2007''.

(e) PROHIBITION OF RETROACTIVE RECOUPMENT.—The Secretary shall not recoup (or otherwise seek to recover) overpayments made for outpatient critical access hospital services under part B of title XVIII of the Social Security Act, for services furnished in cost reporting periods that began before October 1, 2002, insofar as such overpayments are attributable to payment being based on 80 percent of reasonable costs (instead of 100 percent of reasonable costs minus 20 percent of charges).

(f) EFFECTIVE DATES.—

(1) REINSTATEMENT OF PIP.—The amendments made by subsection (a) shall apply to payments made on or after January 1, 2003.

(2) PHYSICIAN PAYMENT ADJUSTMENT CONDITION.—The amendment made by subsection (b) shall be effective as if included in the enactment of section 403(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–371).

(3) FLEXIBILITY IN BED LIMITATION.—The amendments made by subsection (c) shall apply to designations made on or after January 1, 2003, but shall not apply to critical access hospitals that were designated as of such date.

SEC. 306. EXTENSION OF TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 508(a) of BIPA (114 Stat. 2763A–533) is amended—

(1) by striking ''24-MONTH INCREASE BEGINNING APRIL 1, 2001'' and inserting ''IN GENERAL''; and

(2) by striking ''April 1, 2003'' and inserting ''January 1, 2005''.

(b) CONFORMING AMENDMENT.—Section 547(c)(2) of BIPA (114 Stat. 2763A–553) is amended by striking ''the period beginning on April 1, 2001, and ending on September 30, 2002,'' and inserting ''a period under such section''.

SEC. 307. REFERENCE TO 10 PERCENT INCREASE IN PAYMENT FOR HOSPICE CARE FURNISHED IN A FRONTIER AREA AND RURAL HOSPICE DEMONSTRATION PROJECT.

For—

(1) provision of 10 percent increase in payment for hospice care furnished in a frontier area, see section 422; and

(2) provision of a rural hospice demonstration project, see section 423.

SEC. 308. REFERENCE TO PRIORITY FOR HOSPITALS LOCATED IN RURAL OR SMALL URBAN AREAS IN REDISTRIBUTION OF UNUSED GRADUATE MEDICAL EDUCATION RESIDENCIES.

For provision providing priority for hospitals located in rural or small urban areas in redistribution of unused graduate medical education residencies, see section 611.

SEC. 309. GAO STUDY OF GEOGRAPHIC DIFFERENCES IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of differences in payment amounts under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for physicians' services in different geographic areas. Such study shall include—

(1) an assessment of the validity of the geographic adjustment factors used for each component of the fee schedule;

(2) an evaluation of the measures used for such adjustment, including the frequency of revisions; and

(3) an evaluation of the methods used to determine professional liability insurance costs used in computing the malpractice component, including a review of increases in professional liability insurance premiums and variation in such increases by State and physician specialty and methods used to update the geographic cost of practice index and relative weights for the malpractice component.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a). The report shall include recommendations regarding the use of more current data in computing geographic cost of practice indices as well as the use of data directly representative of physicians' costs (rather than proxy measures of such costs).

SEC. 310. PROVIDING SAFE HARBOR FOR CERTAIN COLLABORATIVE EFFORTS THAT BENEFIT MEDICALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7(b)(3)), as amended by section 101(b)(2), is amended—

(1) in subparagraph (F), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(H) any remuneration between a public or nonprofit private health center entity described under clause (i) or (ii) of section 1905(l)(2)(B) and any individual or entity providing goods, items, services, donations or loans, or a combination thereof, to such health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center entity.''.

(b) RULEMAKING FOR EXCEPTION FOR HEALTH CENTER ENTITY ARRANGEMENTS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall establish, on an expedited basis, standards relating to the exception described in section 1128B(b)(3)(H) of the Social Security Act, as added by subsection (a), for health center entity arrangements to the antikickback penalties.

(B) FACTORS TO CONSIDER.—The Secretary shall consider the following factors, among others, in establishing standards relating to the exception for health center entity arrangements under subparagraph (A):

(i) Whether the arrangement between the health center entity and the other party results in savings of Federal grant funds or increased revenues to the health center entity.

(ii) Whether the arrangement between the health center entity and the other party restricts or limits a patient's freedom of choice.

(iii) Whether the arrangement between the health center entity and the other party protects a health care professional's independent medical judgment regarding medically appropriate treatment.

The Secretary may also include other standards and criteria that are consistent with the intent of Congress in enacting the exception established under this section.

(2) INTERIM FINAL EFFECT.—No later than 180 days after the date of enactment of this Act, the Secretary shall publish a rule in the Federal Register consistent with the factors under paragraph (1)(B). Such rule shall be effective and final immediately on an interim basis, subject to such change and revision, after public notice and opportunity (for a period of not more than 60 days) for public comment, as is consistent with this subsection.

SEC. 311. RELIEF FOR CERTAIN NON-TEACHING HOSPITALS.

(a) IN GENERAL.—In the case of a non-teaching hospital that meets the condition of subsection (b), for its cost reporting period beginning in each of fiscal years 2003, 2004, and 2005 the amount of payment made to the hospital under section 1886(d) of the Social Security Act for discharges occurring during such fiscal year only shall be increased as though the applicable percentage increase (otherwise applicable to discharges occurring during such fiscal year under section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) had been increased by 5 percentage points. The previous sentence shall be applied for each such fiscal year separately without regard to its application in a previous fiscal year and shall not affect payment for discharges for any hospital occurring during a fiscal year after fiscal year 2005.

(b) CONDITION.—A non-teaching hospital meets the condition of this paragraph if—

(1) it is located in a rural area and the amount of the aggregate payments under subsection (d) of such section for non-teaching hospitals located in rural areas in the State for their cost reporting periods beginning during fiscal year 1999 is less than the aggregate allowable operating costs of inpatient hospital services (as defined in section

1886(a)(4) of such Act) for all such hospitals in such areas in such State with respect to such cost reporting periods; or

(2) it is located in an urban area and the amount of the aggregate payments under subsection (d) of such section for non-teaching hospitals located in urban areas in the State for their cost reporting periods beginning during fiscal year 1999 is less than 103 percent of the aggregate allowable operating costs of inpatient hospital services (as defined in section 1886(a)(4) of such Act) for all such hospitals in such areas in such State with respect to such cost reporting periods.

The amounts under paragraphs (1) and (2) shall be determined by the Secretary of Health and Human Services based on data of the Medicare Payment Advisory Commission.

(c) DEFINITIONS.—For purposes of this section:

(1) NON-TEACHING HOSPITAL.—The term ''non-teaching hospital'' means, for a cost reporting period, a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act, 42 U.S.C. 1395ww(d)(1)(B))) that is not receiving any additional payment under section 1886(d)(5)(B) of such Act (42 U.S.C. 1395ww(d)(5)(B)) or a payment under section 1886(h) of such Act (42 U.S.C. 1395ww(h)) for discharges occurring during the period.

(2) RURAL; URBAN.—The terms ''rural'' and ''urban'' have the meanings given such terms for purposes of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)).

TITLE IV—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

SEC. 401. REVISION OF ACUTE CARE HOSPITAL PAYMENT UPDATES.

Subclause (XVIII) of section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended to read as follows:

''(XVIII) for fiscal year 2003, the market basket percentage increase for sole community hospitals and such increase minus 0.25 percentage points for other hospitals, and''.

SEC. 402. FREEZE IN LEVEL OF ADJUSTMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION (IME) THROUGH FISCAL YEAR 2007.

Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI), by inserting ''and each succeeding fiscal year through fiscal year 2007'' after ''2002''; and

(2) in subclause (VII), by striking ''2002'' and inserting ''2007''.

SEC. 403. RECOGNITION OF NEW MEDICAL TECHNOLOGIES UNDER INPATIENT HOSPITAL PPS.

(a) IMPROVING TIMELINESS OF DATA COLLECTION.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is amended by adding at the end the following new clause:

''(vii) Under the mechanism under this subparagraph, the Secretary shall provide for the addition of new diagnosis and procedure codes in April 1 of each year, but the addition of such codes shall not require the Secretary to adjust the payment (or diagnosis-related group classification) under this subsection until the fiscal year that begins after such date.''.

(b) ELIGIBILITY STANDARD.—

(1) MINIMUM PERIOD FOR RECOGNITION OF NEW TECHNOLOGIES.—Section 1886(d)(5)(K)(vi) (42 U.S.C. 1395ww(d)(5)(K)(vi)) is amended—

(A) by inserting ''(I)'' after ''(vi)''; and

(B) by adding at the end the following new subclause:

''(II) Under such criteria, a service or technology shall not be denied treatment as a new service or technology on the basis of the period of time in which the service or technology has been in use if such period ends before the end of the 2-to-3-year period that begins on the effective date of implementation of a code under ICD–9–CM (or a successor coding methodology) that enables the identification of a significant sample of specific discharges in which the service or technology has been used.''.

(2) ADJUSTMENT OF THRESHOLD.—Section 1886(d)(5)(K)(ii)(I) (42 U.S.C. 1395ww(d)(5)(K)(ii)(I)) is amended by inserting ''(applying a threshold specified by the Secretary that is the lesser of 50 percent of the national average standardized amount for operating costs of inpatient hospital services for all hospitals and all diagnosis-related groups or one standard deviation for the diagnosis-related group involved)'' after ''is inadequate''.

(3) CRITERION FOR SUBSTANTIAL IMPROVEMENT.—Section 1886(d)(5)(K)(vi) (42 U.S.C. 1395ww(d)(5)(K)(vi)), as amended by paragraph (1), is further amended by adding at the end the following subclause:

''(III) The Secretary shall by regulation provide for further clarification of the criteria applied to determine whether a new service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries. Under such criteria, in determining whether a new service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries, the Secretary shall deem a service or technology as meeting such requirement if the service or technology is a drug or biological that is designated under section 506 or 526 of the Federal Food, Drug, and Cosmetic Act, approved under section 314.510 or 601.41 of title 21, Code of Federal Regulations, or designated for priority review when the marketing application for such drug or biological was filed or is a medical device for which an exemption has been granted under section 520(m) of such Act, or for which priority review has been provided under section 515(d)(5) of such Act.''.

(4) PROCESS FOR PUBLIC INPUT.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)), as amended by paragraph (1), is amended—

(A) in clause (i), by adding at the end the following: ''Such mechanism shall be modified to meet the requirements of clause (viii).''; and

(B) by adding at the end the following new clause:

''(viii) The mechanism established pursuant to clause (i) shall be adjusted to provide, before publication of a proposed rule, for public input regarding whether a new service or technology not described in the second sentence of clause (vi)(III) represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries as follows:

''(I) The Secretary shall make public and periodically update a list of all the services and technologies for which an application for additional payment under this subparagraph is pending.

''(II) The Secretary shall accept comments, recommendations, and data from the public regarding whether the service or technology represents a substantial improvement.

''(III) The Secretary shall provide for a meeting at which organizations representing hospitals, physicians, medicare beneficiaries, manufacturers, and any other interested party may present comments, recommendations, and data to the clinical staff of the Centers for Medicare & Medicaid Services before publication of a notice of proposed rulemaking regarding whether service or technology represents a substantial improvement.''.

(c) PREFERENCE FOR USE OF DRG ADJUSTMENT.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is further amended by adding at the end the following new clause:

''(ix) Before establishing any add-on payment under this subparagraph with respect to a new technology, the Secretary shall seek to identify one or more diagnosis-related groups associated with such technology, based on similar clinical or anatomical characteristics and the cost of the technology. Within such groups the Secretary shall assign an eligible new technology into a diagnosis-related group where the average costs of care most closely approximate the costs of care of using the new technology. In such case, no add-on payment under this subparagraph shall be made with respect to such new technology and this clause shall not affect the application of paragraph (4)(C)(iii).''.

(d) IMPROVEMENT IN PAYMENT FOR NEW TECHNOLOGY.—Section 1886(d)(5)(K)(ii)(III) (42 U.S.C. 1395ww(d)(5)(K)(ii)(III)) is amended by inserting after ''the estimated average cost of such service or technology'' the following: ''(based on the marginal rate applied to costs under subparagraph (A))''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The Secretary shall implement the amendments made by this section so that they apply to classification for fiscal years beginning with fiscal year 2004.

(2) RECONSIDERATIONS OF APPLICATIONS FOR FISCAL YEAR 2003 THAT ARE DENIED.—In the case of an application for a classification of a medical service or technology as a new medical service or technology under section 1886(d)(5)(K) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(K)) that was filed for fiscal year 2003 and that is denied—

(A) the Secretary shall automatically reconsider the application as an application for fiscal year 2004 under the amendments made by this section; and

(B) the maximum time period otherwise permitted for such classification of the service or technology shall be extended by 12 months.

SEC. 404. PHASE-IN OF FEDERAL RATE FOR HOSPITALS IN PUERTO RICO.

Section 1886(d)(9) (42 U.S.C. 1395ww(d)(9)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ''for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)'' and inserting ''the applicable Puerto Rico percentage (specified in subparagraph (E))''; and

(B) in clause (ii), by striking ''for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 25 percent)'' and inserting ''the applicable Federal percentage (specified in subparagraph (E))''; and

(2) by adding at the end the following new subparagraph:

''(E) For purposes of subparagraph (A), for discharges occurring—

''(i) between October 1, 1987, and September 30, 1997, the applicable Puerto Rico percentage is 75 percent and the applicable Federal percentage is 25 percent;

''(ii) on or after October 1, 1997, and before October 1, 2003, the applicable Puerto Rico percentage is 50 percent and the applicable Federal percentage is 50 percent;

''(iii) during fiscal year 2004, the applicable Puerto Rico percentage is 45 percent and the applicable Federal percentage is 55 percent;

''(iv) during fiscal year 2005, the applicable Puerto Rico percentage is 40 percent and the applicable Federal percentage is 60 percent;

''(v) during fiscal year 2006, the applicable Puerto Rico percentage is 35 percent and the applicable Federal percentage is 65 percent;

''(vi) during fiscal year 2007, the applicable Puerto Rico percentage is 30 percent and the

applicable Federal percentage is 70 percent; and

''(vii) on or after October 1, 2007, the applicable Puerto Rico percentage is 25 percent and the applicable Federal percentage is 75 percent.''.

SEC. 405. REFERENCE TO PROVISION RELATING TO ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

For provision enhancing disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds, see section 302.

SEC. 406. REFERENCE TO PROVISION RELATING TO 2-YEAR PHASED-IN INCREASE IN THE STANDARDIZED AMOUNT IN RURAL AND SMALL URBAN AREAS TO ACHIEVE A SINGLE, UNIFORM STANDARDIZED AMOUNT.

For provision phasing in over a 2-year period an increase in the standardized amount for rural and small urban areas to achieve a single, uniform, standardized amount, see section 303.

SEC. 407. REFERENCE TO PROVISION FOR MORE FREQUENT UPDATES IN THE WEIGHTS USED IN HOSPITAL MARKET BASKET.

For provision providing for more frequent updates in the weights used in hospital market basket, see section 304.

SEC. 408. REFERENCE TO PROVISION MAKING IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

For provision providing making improvements to critical access hospital program, see section 305.

Subtitle B—Skilled Nursing Facility Services

SEC. 411. PAYMENT FOR COVERED SKILLED NURSING FACILITY SERVICES.

(a) 5-YEAR EXTENSION OF TEMPORARY INCREASE IN NURSING COMPONENT OF PPS FEDERAL RATE.—Section 312(a) of BIPA is amended by striking '', and before October 1, 2002'' and inserting ''and before October 1, 2007''.

(b) ADJUSTMENT TO RUGS FOR AIDS RESIDENTS.—

(1) IN GENERAL.—Paragraph (12) of section 1888(e) (42 U.S.C. 1395yy(e)) is amended to read as follows:

''(12) ADJUSTMENT FOR RESIDENTS WITH AIDS.—

''(A) IN GENERAL.—Subject to subparagraph (B), in the case of a resident of a skilled nursing facility who is afflicted with acquired immune deficiency syndrome (AIDS), the per diem amount of payment otherwise applicable shall be increased by 128 percent to reflect increased costs associated with such residents.

''(B) SUNSET.—Subparagraph (A) shall not apply on and after such date as the Secretary certifies that there is an appropriate adjustment in the case mix under paragraph (4)(G)(i) to compensate for the increased costs associated with residents described in such subparagraph.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after October 1, 2003.

Subtitle C—Hospice

SEC. 421. COVERAGE OF HOSPICE CONSULTATION SERVICES.

(a) COVERAGE OF HOSPICE CONSULTATION SERVICES.—Section 1812(a) (42 U.S.C. 1395d(a)) is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(3) by inserting after paragraph (4) the following new paragraph:

''(5) for individuals who are terminally ill, have not made an election under subsection (d)(1), and have not previously received services under this paragraph, services that are furnished by a physician who is the medical director or an employee of a hospice program and that consist of—

''(A) an evaluation of the individual's need for pain and symptom management;

''(B) counseling the individual with respect to end-of-life issues and care options; and

''(C) advising the individual regarding advanced care planning.''.

(b) PAYMENT.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

''(4) The amount paid to a hospice program with respect to the services under section 1812(a)(5) for which payment may be made under this part shall be equal to an amount equivalent to the amount established for an office or other outpatient visit for evaluation and management associated with presenting problems of moderate severity under the fee schedule established under section 1848(b), other than the portion of such amount attributable to the practice expense component.''.

(c) CONFORMING AMENDMENT.—Section 1861(dd)(2)(A)(i) (42 U.S.C. 1395x(dd)(2)(A)(i)) is amended by inserting before the comma at the end the following: ''and services described in section 1812(a)(5)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services provided by a hospice program on or after January 1, 2004.

SEC. 422. 10 PERCENT INCREASE IN PAYMENT FOR HOSPICE CARE FURNISHED IN A FRONTIER AREA.

(a) IN GENERAL.—Section 1814(i)(1) (42 U.S.C. 1395f(i)(1)) is amended by adding at the end the following new subparagraph:

''(D) With respect to hospice care furnished in a frontier area on or after January 1, 2003, and before January 1, 2008, the payment rates otherwise established for such care shall be increased by 10 percent. For purposes of this subparagraph, the term 'frontier area' means a county in which the population density is less than 7 persons per square mile.''.

(b) REPORT ON COSTS.—Not later than January 1, 2007, the Comptroller General of the United States shall submit to Congress a report on the costs of furnishing hospice care in frontier areas. Such report shall include recommendations regarding the appropriateness of extending, and modifying, the payment increase provided under the amendment made by subsection (a).

SEC. 423. RURAL HOSPICE DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary shall conduct a demonstration project for the delivery of hospice care to medicare beneficiaries in rural areas. Under the project medicare beneficiaries who are unable to receive hospice care in the home for lack of an appropriate caregiver are provided such care in a facility of 20 or fewer beds which offers, within its walls, the full range of services provided by hospice programs under section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)).

(b) SCOPE OF PROJECT.—The Secretary shall conduct the project under this section with respect to no more than 3 hospice programs over a period of not longer than 5 years each.

(c) COMPLIANCE WITH CONDITIONS.—Under the demonstration project—

(1) the hospice program shall comply with otherwise applicable requirements, except that it shall not be required to offer services outside of the home or to meet the requirements of section 1861(dd)(2)(A)(iii) of the Social Security Act; and

(2) payments for hospice care shall be made at the rates otherwise applicable to such care under title XVIII of such Act.

The Secretary may require the program to comply with such additional quality assurance standards for its provision of services in its facility as the Secretary deems appropriate.

(d) REPORT.—Upon completion of the project, the Secretary shall submit a report to Congress on the project and shall include in the report recommendations regarding extension of such project to hospice programs serving rural areas.

Subtitle D—Other Provisions

SEC. 431. DEMONSTRATION PROJECT FOR USE OF RECOVERY AUDIT CONTRACTORS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project under this section (in this section referred to as the ''project'') to demonstrate the use of recovery audit contractors under the Medicare Integrity Program in identifying and recouping overpayments under the medicare program for services for which payment is made under part A of title XVIII of the Social Security Act. Under the project—

(1) payment may be made to such a contractor on a contingent basis;

(2) a percentage of the amount recovered may be retained by the Secretary and shall be available to the program management account of the Centers for Medicare & Medicaid Services; and

(3) the Secretary shall examine the efficacy of such use with respect to duplicative payments, accuracy of coding, and other payment policies in which inaccurate payments arise.

(b) SCOPE AND DURATION.—The project shall cover at least 2 States and at least 3 contractors and shall last for not longer than 3 years.

(c) WAIVER.—The Secretary of Health and Human Services shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (a).

(d) QUALIFICATIONS OF CONTRACTORS.—

(1) IN GENERAL.—The Secretary shall enter into a recovery audit contract under this section with an entity only if the entity has staff that has knowledge of and experience with the payment rules and regulations under the medicare program or the entity has or will contract with another entity that has such knowledgeable and experienced staff.

(2) INELIGIBILITY OF CERTAIN CONTRACTORS.—The Secretary may not enter into a recovery audit contract under this section with an entity to the extent that the entity is a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h), a carrier under section 1842 of such Act (42 U.S.C. 1395u), or a Medicare Administrative Contractor under section 1874A of such Act, or any other entity that carries out the type of activities with respect to providers of services under part A that would constitute a conflict of interest, as determined by the Secretary.

(3) PREFERENCE FOR ENTITIES WITH DEMONSTRATED PROFICIENCY WITH PRIVATE INSURERS.—In awarding contracts to recovery audit contractors under this section, the Secretary shall give preference to those entities that the Secretary determines have demonstrated proficiency in recovery audits with private insurers or under the medicaid program under title XIX of such Act.

(e) REPORT.—The Secretary of Health and Human Services shall submit to Congress a report on the project not later than 6 months after the date of its completion. Such reports shall include information on the impact of

the project on savings to the medicare program and recommendations on the cost-effectiveness of extending or expanding the project.

TITLE V—PROVISIONS RELATING TO PART B

Subtitle A—Physicians' Services

SEC. 501. REVISION OF UPDATES FOR PHYSICIANS' SERVICES.

(a) UPDATE FOR 2003 THROUGH 2006.—

(1) IN GENERAL.—Section 1848(d) (42 U.S.C. 1395w–4(d)) is amended by adding at the end the following new paragraphs:

''(5) UPDATE FOR 2003.—The update to the single conversion factor established in paragraph (1)(C) for 2003 is 2 percent.

''(6) SPECIAL RULES FOR UPDATE FOR 2004, 2005, AND 2006.—The following rules apply in determining the update adjustment factors under paragraph (4)(B) for 2004, 2005, and 2006:

''(A) USE OF 2002 DATA IN DETERMINING ALLOWABLE COSTS.—

''(i) The reference in clause (ii)(I) of such paragraph to April 1, 1996, is deemed to be a reference to January 1, 2002.

''(ii) The allowed expenditures for 2002 is deemed to be equal to the actual expenditures for physicians' services furnished during 2002, as estimated by the Secretary.

''(B) 1 PERCENTAGE POINT INCREASE IN GDP UNDER SGR.—The annual average percentage growth in real gross domestic product per capita under subsection (f)(2)(C) for each of 2003, 2004, 2005, and 2006 is deemed to be increased by 1 percentage point.''.

(2) CONFORMING AMENDMENT.—Paragraph (4)(B) of such section is amended, in the matter before clause (i), by inserting ''and paragraph (6)'' after ''subparagraph (D)''.

(3) NOT TREATED AS CHANGE IN LAW AND REGULATION IN SUSTAINABLE GROWTH RATE DETERMINATION.—The amendments made by this subsection shall not be treated as a change in law for purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(D)).

(b) USE OF 10-YEAR ROLLING AVERAGE IN COMPUTING GROSS DOMESTIC PRODUCT.—

(1) IN GENERAL.—Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended—

(A) by striking ''projected'' and inserting ''annual average''; and

(B) by striking ''from the previous applicable period to the applicable period involved'' and inserting ''during the 10-year period ending with the applicable period involved''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to computations of the sustainable growth rate for years beginning with 2002.

(c) ELIMINATION OF TRANSITIONAL ADJUSTMENT.—Section 1848(d)(4)(F) (42 U.S.C. 1395w–4(d)(4)(F)) is amended by striking ''subparagraph (A)'' and all that follows and inserting ''subparagraph (A), for each of 2001 and 2002, of −0.2 percent.''

SEC. 502. STUDIES ON ACCESS TO PHYSICIANS' SERVICES.

(a) GAO STUDY ON BENEFICIARY ACCESS TO PHYSICIANS' SERVICES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on access of medicare beneficiaries to physicians' services under the medicare program. The study shall include—

(A) an assessment of the use by beneficiaries of such services through an analysis of claims submitted by physicians for such services under part B of the medicare program;

(B) an examination of changes in the use by beneficiaries of physicians' services over time;

(C) an examination of the extent to which physicians are not accepting new medicare beneficiaries as patients.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include a determination whether—

(A) data from claims submitted by physicians under part B of the medicare program indicate potential access problems for medicare beneficiaries in certain geographic areas; and

(B) access by medicare beneficiaries to physicians' services may have improved, remained constant, or deteriorated over time.

(b) STUDY AND REPORT ON SUPPLY OF PHYSICIANS.—

(1) STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct a study on the adequacy of the supply of physicians (including specialists) in the United States and the factors that affect such supply.

(2) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the study described in paragraph (1), including any recommendations for legislation.

SEC. 503. MEDPAC REPORT ON PAYMENT FOR PHYSICIANS' SERVICES.

Not later than 1 year after the date of the enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report on the effect of refinements to the practice expense component of payments for physicians' services in the case of services for which there are no physician work relative value units, after the transition to a full resource-based payment system in 2002, under section 1848 of the Social Security Act (42 U.S.C. 1395w–4). Such report shall examine the following matters by physician specialty:

(1) The effect of such refinements on payment for physicians' services.

(2) The interaction of the practice expense component with other components of and adjustments to payment for physicians' services under such section.

(3) The appropriateness of the amount of compensation by reason of such refinements.

(4) The effect of such refinements on access to care by medicare beneficiaries to physicians' services.

(5) The effect of such refinements on physician participation under the medicare program.

SEC. 504. 1-YEAR EXTENSION OF TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.

Section 542(c) of BIPA is amended by striking ''2-year period'' and inserting ''3-year period''.

SEC. 505. PHYSICIAN FEE SCHEDULE WAGE INDEX REVISION.

(a) IN GENERAL.—Notwithstanding any other provision of law, for purposes of payment under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for physicians' services furnished during 2004, in no case may the work geographic index otherwise calculated under section 1848(e)(1)(A)(iii) of such Act (42 U.S.C. 1395w–4(e)(1)(A)(iii)) be less than 0.985.

(b) EXEMPTION FROM LIMITATION ON ANNUAL ADJUSTMENTS.—The increase in expenditures attributable to subsection (a) during 2004 shall not be taken into account in applying section 1848(c)(2)(B)(ii)(II) of such Act (42 U.S.C. 1395w–4(c)(2)(B)(ii)(II)) for that year.

(c) GAO REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study to evaluate the following:

(A) The economic basis of the current methodology for geographic adjustment of the work component of the physician payment rate under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4).

(B) Whether the adjustment under subsection (a) should be continued, and whether there is an economic basis for the continuation of such adjustment, in those areas in which the adjustment applies.

(C) The effect of the methodology on physician location and retention in areas affected by such adjustment.

(D) The differences in recruitment costs and retention rates for physicians, including specialists, between large urban areas and other areas.

(E) The mobility of physicians, including specialists, over the last decade.

(F) The effect of raising the floor of the geographic index to a value of 1.0 for adjustment of the work component.

(2) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than 1 year after the date of the enactment of this Act.

Subtitle B—Other Services

SEC. 511. COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES.

(a) IN GENERAL.—Section 1847 (42 U.S.C. 1395w–3) is amended to read as follows:

''COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES

''SEC. 1847. (a) ESTABLISHMENT OF COMPETITIVE ACQUISITION PROGRAMS.—

''(1) IMPLEMENTATION OF PROGRAMS.—

''(A) IN GENERAL.—The Secretary shall establish and implement programs under which, beginning in 2008, competitive acquisition areas are established throughout the United States for contract award purposes for the furnishing under this part of competitively priced items and services (described in paragraph (2)) for which payment is made under this part. Such areas may differ for different items and services.

''(B) PHASED-IN IMPLEMENTATION.—The programs shall be phased-in among competitive acquisition areas over a period of not longer than 3 years in a manner so that the competition under the programs occurs in—

''(i) at least ⅓ of such areas in 2008; and

''(ii) at least ⅔ of such areas in 2009.

''(C) WAIVER OF CERTAIN PROVISIONS.—In carrying out the programs, the Secretary may waive such provisions of the Federal Acquisition Regulation as are necessary for the efficient implementation of this section, other than provisions relating to confidentiality of information and such other provisions as the Secretary determines appropriate.

''(2) ITEMS AND SERVICES DESCRIBED.—The items and services referred to in paragraph (1) are the following:

''(A) DURABLE MEDICAL EQUIPMENT AND INHALATION DRUGS USED IN CONNECTION WITH DURABLE MEDICAL EQUIPMENT.—Covered items (as defined in section 1834(a)(13)) for which payment is otherwise made under section 1834(a), other than items used in infusion, and inhalation drugs used in conjunction with durable medical equipment.

''(B) OFF-THE-SHELF ORTHOTICS.—Orthotics (described in section 1861(s)(9)) for which payment is otherwise made under section 1834(h) which require minimal self-adjustment for appropriate use and does not require expertise in trimming, bending, molding, assembling, or customizing to fit to the patient.

''(3) EXEMPTION AUTHORITY.—In carrying out the programs under this section, the Secretary may exempt—

''(A) areas that are not competitive due to low population density; and

''(B) items and services for which the application of competitive acquisition is not likely to result in significant savings.

''(b) PROGRAM REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall conduct a competition among entities supplying items and services described in subsection (a)(2) for each competitive acquisition area in which the program is implemented under subsection (a) with respect to such items and services.

''(2) CONDITIONS FOR AWARDING CONTRACT.—

''(A) IN GENERAL.—The Secretary may not award a contract to any entity under the competition conducted in an competitive acquisition area pursuant to paragraph (1) to furnish such items or services unless the Secretary finds all of the following:

''(i) The entity meets quality and financial standards specified by the Secretary or developed by accreditation entities or organizations recognized by the Secretary.

''(ii) The total amounts to be paid under the contract (including costs associated with the administration of the contract) are expected to be less than the total amounts that would otherwise be paid.

''(iii) Beneficiary access to a choice of multiple suppliers in the area is maintained.

''(iv) Beneficiary liability is limited to the applicable percentage of contract award price.

''(B) QUALITY STANDARDS.—The quality standards specified under subparagraph (A)(i) shall not be less than the quality standards that would otherwise apply if this section did not apply and shall include consumer services standards. The Secretary shall consult with an expert outside advisory panel composed of an appropriate selection of representatives of physicians, practitioners, and suppliers to review (and advise the Secretary concerning) such quality standards.

''(3) CONTENTS OF CONTRACT.—

''(A) IN GENERAL.—A contract entered into with an entity under the competition conducted pursuant to paragraph (1) is subject to terms and conditions that the Secretary may specify.

''(B) TERM OF CONTRACTS.—The Secretary shall rebid contracts under this section not less often than once every 3 years.

''(4) LIMIT ON NUMBER OF CONTRACTORS.—

''(A) IN GENERAL.—The Secretary may limit the number of contractors in a competitive acquisition area to the number needed to meet projected demand for items and services covered under the contracts. In awarding contracts, the Secretary shall take into account the ability of bidding entities to furnish items or services in sufficient quantities to meet the anticipated needs of beneficiaries for such items or services in the geographic area covered under the contract on a timely basis.

''(B) MULTIPLE WINNERS.—The Secretary shall award contracts to more than one entity submitting a bid in each area for an item or service.

''(5) PARTICIPATING CONTRACTORS.—Payment shall not be made for items and services described in subsection (a)(2) furnished by a contractor and for which competition is conducted under this section unless—

''(A) the contractor has submitted a bid for such items and services under this section; and

''(B) the Secretary has awarded a contract to the contractor for such items and services under this section.

''(6) AUTHORITY TO CONTRACT FOR EDUCATION, OUTREACH AND COMPLAINT SERVICES.—The Secretary may enter into a contract with an appropriate entity to address complaints from beneficiaries who receive items and services from an entity with a contract under this section and to conduct appropriate education of and outreach to such beneficiaries with respect to the program.

''(c) ANNUAL REPORTS.—The Secretary shall submit to Congress an annual management report on the programs under this section. Each such report shall include information on savings, reductions in cost-sharing, access to items and services, and beneficiary satisfaction.

''(d) DEMONSTRATION PROJECT FOR CLINICAL LABORATORY SERVICES.—

''(1) IN GENERAL.—The Secretary shall, beginning in 2008, conduct a demonstration project on the application of competitive acquisition under this section to clinical diagnostic laboratory tests—

''(A) for which payment is otherwise made under section 1833(h) or 1834(d)(1) (relating to colorectal cancer screening tests); and

''(B) which are furnished without a face-to-face encounter between the individual and the hospital or physician ordering the tests.

''(2) TERMS AND CONDITIONS.—Such project shall be under the same conditions as are applicable to items and services described in subsection (a)(2).

''(3) REPORT.—The Secretary shall submit to Congress—

''(A) an initial report on the project not later than December 31, 2009; and

''(B) such progress and final reports on the project after such date as the Secretary determines appropriate.''.

(b) CONTINUATION OF CERTAIN DEMONSTRATION PROJECTS.—Notwithstanding the amendment made by subsection (a), with respect to demonstration projects implemented by the Secretary under section 1847 of the Social Security Act (42 U.S.C. 1395w–3) (relating to the establishment of competitive acquisition areas) that was in effect on the day before the date of the enactment of this Act, each such demonstration project may continue under the same terms and conditions applicable under that section as in effect on that date.

(c) REPORT ON DIFFERENCES IN PAYMENT FOR LABORATORY SERVICES.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that analyzes differences in reimbursement between public and private payors for clinical diagnostic laboratory services.

(d) MEDPAC REPORT ON IMPACT OF DEMONSTRATION PROJECTS ON BENEFICIARY ACCESS TO SERVICES.—Not later than 1 year after the date of the enactment of this Act, the Medicare Pyament Advisory Commission shall submit to Congress a report that analyzes the impact of demonstration projects carried out under section 1847 of the Social Security Act, as in effect on June 1, 2002, on access by medicare beneficiaries to durable medical equipment for which payment was made under the demonstration project.

SEC. 512. PAYMENT FOR AMBULANCE SERVICES.

(a) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—Section 1834(l) (42 U.S.C. 1395m(l)) is amended—

(1) in paragraph (2)(E), by inserting ''consistent with paragraph (10)'' after ''in an efficient and fair manner'';

(2) by redesignating the paragraph (8) added by section 221(a) of BIPA as paragraph (9); and

(3) by adding at the end the following new paragraph:

''(10) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—In carrying out the phase-in under paragraph (2)(E) for each level of service furnished in a year before January 1, 2007, the portion of the payment amount that is based on the fee schedule shall not be less than the following blended rate of the fee schedule under paragraph (1) and of a regional fee schedule for the region involved:

''(A) For 2003, the blended rate shall be based 20 percent on the fee schedule under paragraph (1) and 80 percent on the regional fee schedule.

''(B) For 2004, the blended rate shall be based 40 percent on the fee schedule under paragraph (1) and 60 percent on the regional fee schedule.

''(C) For 2005, the blended rate shall be based 60 percent on the fee schedule under paragraph (1) and 40 percent on the regional fee schedule.

''(D) For 2006, the blended rate shall be based 80 percent on the fee schedule under paragraph (1) and 20 percent on the regional fee schedule.

For purposes of this paragraph, the Secretary shall establish a regional fee schedule for each of the 9 Census divisions using the methodology (used in establishing the fee schedule under paragraph (1)) to calculate a regional conversion factor and a regional mileage payment rate and using the same payment adjustments and the same relative value units as used in the fee schedule under such paragraph.''.

(b) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—Section 1834(l), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

''(11) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—In the case of ground ambulance services furnished on or after January 1, 2003, and before January 1, 2008, regardless of where the transportation originates, the fee schedule established under this subsection shall provide that, with respect to the payment rate for mileage for a trip above 50 miles the per mile rate otherwise established shall be increased by ¼ of the payment per mile otherwise applicable to such miles.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to ambulance services furnished on or after January 1, 2003.

SEC. 513. 5-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS; PROVISIONS RELATING TO REPORTS.

(a) 5-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS.—Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is amended by striking ''and 2002'' and inserting ''2002, 2003, 2004, 2005, 2006, and 2007''.

(b) PROMPT SUBMISSION OF OVERDUE REPORTS ON PAYMENT AND UTILIZATION OF OUTPATIENT THERAPY SERVICES.—Not later than December 31, 2002, the Secretary shall submit to Congress the reports required under section 4541(d)(2) of the Balanced Budget Act of 1997 (relating to alternatives to a single annual dollar cap on outpatient therapy) and under section 221(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (relating to utilization patterns for outpatient therapy).

(c) IDENTIFICATION OF CONDITIONS AND DISEASES JUSTIFYING WAIVER OF THERAPY CAP.—

(1) STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to identify conditions or diseases that should justify conducting an assessment of the need to waive the therapy caps under section 1833(g)(4) of the Social Security Act (42 U.S.C. 1395l(g)(4)).

(2) REPORTS TO CONGRESS.—Not later than July 1, 2003, the Secretary shall submit to Congress a preliminary report on the conditions and diseases identified under paragraph (1) and not later than September 1, 2003, a final report on the conditions and diseases so identified.

(d) GAO STUDY OF PATIENT ACCESS TO PHYSICAL THERAPIST SERVICES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on access to physical therapist services in States authorizing such services without a physician referral and in States that require such a physician referral. The study shall—

(A) examine the use of and referral patterns for physical therapist services for patients age 50 and older in States that authorize such services without a physician referral and in States that require such a physician referral;

(B) examine the use of and referral patterns for physical therapist services for patients who are medicare beneficiaries;

(C) examine the potential effect of prohibiting a physician from referring patients to physical therapy services owned by the physician and provided in the physician's office;

(D) examine the delivery of physical therapists' services within the facilities of Department of Defense; and

(E) analyze the potential impact on medicare beneficiaries and on expenditures under the medicare program of eliminating the need for a physician referral and physician certification for physical therapist services under the medicare program.

(2) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than 1 year after the date of the enactment of this Act.

SEC. 514. ACCELERATED IMPLEMENTATION OF 20 PERCENT COINSURANCE FOR HOSPITAL OUTPATIENT DEPARTMENT (OPD) SERVICES; OTHER OPD PROVISIONS.

(a) ACCELERATED IMPLEMENTATION OF COINSURANCE REDUCTIONS.—Section 1833(t)(8)(C)(ii) (42 U.S.C. 1395l(t)(8)(C)(ii)) is amended by striking subclauses (III) through (V) and inserting the following:

''(III) For procedures performed in 2004, 45 percent.

''(IV) For procedures performed in 2005, 40 percent.

''(V) For procedures performed in 2006, 2007, 2008 and 2009, 35 percent.

''(VI) For procedures performed in 2010, 30 percent.

''(VII) For procedures performed in 2011, 25 percent.

''(VIII) For procedures performed in 2012 and thereafter, 20 percent.''.

(b) TREATMENT OF TEMPERATURE MONITORED CRYOABLATION.—

(1) IN GENERAL.—Section 1833(t)(6)(A)(ii) (42 U.S.C. 1395l(t)(6)(A)(ii)) is amended by striking ''or temperature monitored cryoablation''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to payment for services furnished on or after January 1, 2003.

SEC. 515. COVERAGE OF AN INITIAL PREVENTIVE PHYSICAL EXAMINATION.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), is amended—

(1) in subparagraph (U), by striking ''and'' at the end;

(2) in subparagraph (V), by inserting ''and'' at the end; and

(3) by adding at the end the following new subparagraph:

''(W) an initial preventive physical examination (as defined in subsection (ww));''.

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Initial Preventive Physical Examination

''(ww) The term 'initial preventive physical examination' means physicians' services consisting of a physical examination with the goal of health promotion and disease detection and includes items and services specified by the Secretary in regulations.''.

(c) WAIVER OF DEDUCTIBLE AND COINSURANCE.—

(1) DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)) is amended—

(A) by striking ''and'' before ''(6)'', and

(B) by inserting before the period at the end the following: '', and (7) such deductible shall not apply with respect to an initial preventive physical examination (as defined in section 1861(ww))''.

(2) COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) in clause (N), by inserting ''(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))'' after ''80 percent''; and

(B) in clause (O), by inserting ''(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))'' after ''80 percent''.

(d) PAYMENT AS PHYSICIANS' SERVICES.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by inserting ''(2)(W),'' after ''(2)(S),''.

(e) OTHER CONFORMING AMENDMENTS.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''and'' at the end of subparagraph (H);

(B) by striking the semicolon at the end of subparagraph (I) and inserting '', and''; and

(C) by adding at the end the following new subparagraph:

''(J) in the case of an initial preventive physical examination, which is performed not later than 6 months after the date the individual's first coverage period begins under part B;''; and

(2) in paragraph (7), by striking ''or (H)'' and inserting ''(H), or (J)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2004, but only for individuals whose coverage period begins on or after such date.

SEC. 516. RENAL DIALYSIS SERVICES.

(a) REPORT ON DIFFERENCES IN COSTS IN DIFFERENT SETTINGS.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report containing—

(1) an analysis of the differences in costs of providing renal dialysis services under the medicare program in home settings and in facility settings;

(2) an assessment of the percentage of overhead costs in home settings and in facility settings; and

(3) an evaluation of whether the charges for home dialysis supplies and equipment are reasonable and necessary.

(b) RESTORING COMPOSITE RATE EXCEPTIONS FOR PEDIATRIC FACILITIES.—

(1) IN GENERAL.—Section 422(a)(2) of BIPA is amended—

(A) in subparagraph (A), by striking ''and (C)'' and inserting '', (C), and (D)'';

(B) in subparagraph (B), by striking ''In the case'' and inserting ''Subject to subparagraph (D), in the case''; and

(C) by adding at the end the following new subparagraph:

''(D) INAPPLICABILITY TO PEDIATRIC FACILITIES.—Subparagraphs (A) and (B) shall not apply, as of October 1, 2002, to pediatric facilities that do not have an exception rate described in subparagraph (C) in effect on such date. For purposes of this subparagraph, the term 'pediatric facility' means a renal facility at least 50 percent of whose patients are individuals under 18 years of age.''.

(2) CONFORMING AMENDMENT.—The fourth sentence of section 1881(b)(7) (42 U.S.C. 1395rr(b)(7)) is amended by striking ''The Secretary'' and inserting ''Subject to section 422(a)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, the Secretary''.

(c) INCREASE IN RENAL DIALYSIS COMPOSITE RATE FOR SERVICES FURNISHED IN 2004.—Notwithstanding any other provision of law, with respect to payment under part B of title XVIII of the Social Security Act for renal dialysis services furnished in 2004, the composite payment rate otherwise established under section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) shall be increased by 1.2 percent.

SEC. 517. IMPROVED PAYMENT FOR CERTAIN MAMMOGRAPHY SERVICES.

(a) EXCLUSION FROM OPD FEE SCHEDULE.—Section 1833(t)(1)(B)(iv) (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by inserting before the period at the end the following: ''and does not include screening mammography (as defined in section 1861(jj)) and unilateral and bilateral diagnostic mammography''.

(b) ADJUSTMENT TO TECHNICAL COMPONENT.—For diagnostic mammography performed on or after January 1, 2004, for which payment is made under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4), the Secretary, based on the most recent cost data available, shall provide for an appropriate adjustment in the payment amount for the technical component of the diagnostic mammography.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to mammography performed on or after January 1, 2004.

SEC. 518. WAIVER OF PART B LATE ENROLLMENT PENALTY FOR CERTAIN MILITARY RETIREES; SPECIAL ENROLLMENT PERIOD.

(a) WAIVER OF PENALTY.—

(1) IN GENERAL.—Section 1839(b) (42 U.S.C. 1395r(b)) is amended by adding at the end the following new sentence: ''No increase in the premium shall be effected for a month in the case of an individual who is 65 years of age or older, who enrolls under this part during 2001, 2002, or 2003, and who demonstrates to the Secretary before December 31, 2003, that the individual is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code). The Secretary of Health and Human Services shall consult with the Secretary of Defense in identifying individuals described in the previous sentence.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to premiums for months beginning with January 2003. The Secretary of Health and Human Services shall establish a method for providing rebates of premium penalties paid for months on or after January 2003 for which a penalty does not apply under such amendment but for which a penalty was previously collected.

(b) MEDICARE PART B SPECIAL ENROLLMENT PERIOD.—

(1) IN GENERAL.—In the case of any individual who, as of the date of the enactment of this Act, is 65 years of age or older, is eligible to enroll but is not enrolled under part B of title XVIII of the Social Security Act, and is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code), the Secretary of Health and Human Services shall provide for a special enrollment period during which the individual may enroll under such part. Such period shall begin as soon as possible after the date of the enactment of this Act and shall end on December 31, 2003.

(2) COVERAGE PERIOD.—In the case of an individual who enrolls during the special enrollment period provided under paragraph (1), the coverage period under part B of title XVIII of the Social Security Act shall begin on the first day of the month following the month in which the individual enrolls.

SEC. 519. COVERAGE OF CHOLESTEROL AND BLOOD LIPID SCREENING.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by section 515(a), is amended—

(1) in subparagraph (V), by striking ''and'' at the end;

(2) in subparagraph (W), by inserting ''and'' at the end; and

(3) by adding at the end the following new subparagraph:

''(X) cholesterol and other blood lipid screening tests (as defined in subsection (xx));''.

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x), as amended by section 515(b), is amended by adding at the end the following new subsection:

''Cholesterol and Other Blood Lipid Screening Test

''(xx)(1) The term 'cholesterol and other blood lipid screening test' means diagnostic testing of cholesterol and other lipid levels of the blood for the purpose of early detection of abnormal cholesterol and other lipid levels.

''(2) The Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency and type of cholesterol and other blood lipid screening tests, except that such frequency may not be more often than once every 2 years.''.

(c) FREQUENCY.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 515(e), is amended

(1) by striking ''and'' at the end of subparagraph (I);

(2) by striking the semicolon at the end of subparagraph (J) and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(K) in the case of a cholesterol and other blood lipid screening test (as defined in section 1861(xx)(1)), which is performed more frequently than is covered under section 1861(xx)(2).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2004.

TITLE VI—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

SEC. 601. ELIMINATION OF 15 PERCENT REDUCTION IN PAYMENT RATES UNDER THE PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1895(b)(3)(A) (42 U.S.C. 1395fff(b)(3)(A)) is amended to read as follows:

''(A) INITIAL BASIS.—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts) as follows:

''(i) Such amount (or amounts) shall initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2001 shall be equal to the total amount that would have been made if the system had not been in effect and if section 1861(v)(1)(L)(ix) had not been enacted.

''(ii) For fiscal year 2002 and for the first quarter of fiscal year 2003, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for the previous fiscal year, updated under subparagraph (B).

''(iii) For 2003, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for fiscal year 2002, updated under subparagraph (B) for 2003.

''(iv) For 2004 and each subsequent year, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for the previous year, updated under subparagraph (B).

Each such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and area wage adjustments among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 501 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554).

SEC. 602. UPDATE IN HOME HEALTH SERVICES.

(a) CHANGE TO CALENDAR YEAR UPDATE.—

(1) IN GENERAL.—Section 1895(b) (42 U.S.C. 1395fff(b)(3)) is amended—

(A) in paragraph (3)(B)(i)—

(i) by striking ''each fiscal year (beginning with fiscal year 2002)'' and inserting ''fiscal year 2002 and for each subsequent year (beginning with 2003)''; and

(ii) by inserting ''or year'' after ''the fiscal year'';

(B) in paragraph (3)(B)(ii)—

(i) in subclause (II), by striking ''fiscal year'' and inserting ''year'' and by redesignating such subclause as subclause (III); and

(ii) in subclause (I), by striking ''each of fiscal years 2002 and 2003'' and inserting the following: ''fiscal year 2002, the home health market basket percentage increase (as defined in clause (iii)) minus 1.1 percentage points;

''(II) 2003'';

(C) in paragraph (3)(B)(iii), by inserting ''or year'' after ''fiscal year'' each place it appears;

(D) in paragraph (3)(B)(iv)—

(i) by inserting ''or year'' after ''fiscal year'' each place it appears; and

(ii) by inserting ''or years'' after ''fiscal years''; and

(E) in paragraph (5), by inserting ''or year'' after ''fiscal year''.

(2) TRANSITION RULE.—The standard prospective payment amount (or amounts) under section 1895(b)(3) of the Social Security Act for the calendar quarter beginning on October 1, 2002, shall be such amount (or amounts) for the previous calendar quarter.

(b) CHANGES IN UPDATES FOR 2003, 2004, AND 2005.—Section 1895(b)(3)(B)(ii) (42 U.S.C. 1395fff(b)(3)(B)(ii)), as amended by subsection (a)(1)(B), is amended—

(1) in subclause (II), by striking ''the home health market basket percentage increase (as defined in clause (iii)) minus 1.1 percentage points'' and inserting ''2.0 percentage points'';

(2) by striking ''or'' at the end of subclause (II);

(3) by redesignating subclause (III) as subclause (V); and

(4) by inserting after subclause (II) the following new subclause:

''(III) 2004, 1.1 percentage points;

''(IV) 2005, 2.7 percentage points; or''.

(c) PAYMENT ADJUSTMENT.—

(1) IN GENERAL.—Section 1895(b)(5) (42 U.S.C. 1395fff(b)(5)) is amended by striking ''5 percent'' and inserting ''3 percent''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to years beginning with 2003.

SEC. 603. OASIS TASK FORCE; SUSPENSION OF CERTAIN OASIS DATA COLLECTION REQUIREMENTS PENDING TASK FORCE SUBMITTAL OF REPORT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish and appoint a task force (to be known as the ''OASIS Task Force'') to examine the data collection and reporting requirements under OASIS. For purposes of this section, the term ''OASIS'' means the Outcome and Assessment Information Set required by reason of section 4602(e) of Balanced Budget Act of 1997 (42 U.S.C. 1395fff note).

(b) COMPOSITION.—The OASIS Task Force shall be composed of the following:

(1) Staff of the Centers for Medicare & Medicaid Services with expertise in post-acute care.

(2) Representatives of home health agencies.

(3) Health care professionals and research and health care quality experts outside the Federal Government with expertise in post-acute care.

(4) Advocates for individuals requiring home health services.

(c) DUTIES.—

(1) REVIEW AND RECOMMENDATIONS.—The OASIS Task Force shall review and make recommendations to the Secretary regarding changes in OASIS to improve and simplify data collection for purposes of—

(A) assessing the quality of home health services; and

(B) providing consistency in classification of patients into home health resource groups (HHRGs) for payment under section 1895 of the Social Security Act (42 U.S.C. 1395fff).

(2) SPECIFIC ITEMS.—In conducting the review under paragraph (1), the OASIS Task Force shall specifically examine—

(A) the 41 outcome measures currently in use;

(B) the timing and frequency of data collection; and

(C) the collection of information on comorbidities and clinical indicators.

(3) REPORT.—The OASIS Task Force shall submit a report to the Secretary containing its findings and recommendations for changes in OASIS by not later than 18 months after the date of the enactment of this Act.

(d) SUNSET.—The OASIS Task Force shall terminate 60 days after the date on which the report is submitted under subsection (c)(2).

(e) NONAPPLICATION OF FACA.—The provisions of the Federal Advisory Committee Act shall not apply to the OASIS Task Force.

(f) SUSPENSION OF OASIS REQUIREMENT FOR COLLECTION OF DATA ON NON-MEDICARE AND NON-MEDICAID PATIENTS PENDING TASK FORCE REPORT.—

(1) IN GENERAL.—During the period described in paragraph (2), the Secretary of Health and Human Services may not require, under section 4602(e) of the Balanced Budget Act of 1997 or otherwise under OASIS, a home health agency to gather or submit information that relates to an individual who is not eligible for benefits under either title XVIII or title XIX of the Social Security Act.

(2) PERIOD OF SUSPENSION.—The period described in this paragraph—

(A) begins on January 1, 2003, and

(B) ends on the last day of the 2nd month beginning after the date the report is submitted under subsection (c)(2).

SEC. 604. MEDPAC STUDY ON MEDICARE MARGINS OF HOME HEALTH AGENCIES.

(a) STUDY.—The Medicare Payment Advisory Commission shall conduct a study of payment margins of home health agencies under the home health prospective payment system under section 1895 of the Social Security Act (42 U.S.C. 1395fff). Such study shall examine whether systematic differences in payment margins are related to differences in case mix (as measured by home health resource groups (HHRGs)) among such agencies. The study shall use the partial or full-year cost reports filed by home health agencies.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study under subsection (a).

Subtitle B—Direct Graduate Medical Education

SEC. 611. REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.

(a) IN GENERAL.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended—

(1) in subparagraph (F)(i), by inserting ''subject to subparagraph (I),'' after ''October 1, 1997,'';

(2) in subparagraph (H)(i), by inserting ''subject to subparagraph (I),'' after ''subparagraphs (F) and (G),''; and

(3) by adding at the end the following new subparagraph:

''(I) REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.—

''(i) REDUCTION IN LIMIT BASED ON UNUSED POSITIONS.—

''(I) IN GENERAL.—If a hospital's resident level (as defined in clause (iii)(I)) is less than the otherwise applicable resident limit (as defined in clause (iii)(II)) for each of the reference periods (as defined in subclause (II)), effective for cost reporting periods beginning on or after January 1, 2003, the otherwise applicable resident limit shall be reduced by 75 percent of the difference between such limit and the reference resident level specified in subclause (III) (or subclause (IV) if applicable).

''(II) REFERENCE PERIODS DEFINED.—In this clause, the term 'reference periods' means, for a hospital, the 3 most recent consecutive cost reporting periods of the hospital for which cost reports have been settled (or, if not, submitted) on or before September 30, 2001.

''(III) REFERENCE RESIDENT LEVEL.—Subject to subclause (IV), the reference resident level specified in this subclause for a hospital is the highest resident level for the hospital during any of the reference periods.

''(IV) ADJUSTMENT PROCESS.—Upon the timely request of a hospital, the Secretary may adjust the reference resident level for a hospital to be the resident level for the hospital for the cost reporting period that includes July 1, 2002.

''(ii) REDISTRIBUTION.—

''(I) IN GENERAL.—The Secretary is authorized to increase the otherwise applicable resident limits for hospitals by an aggregate number estimated by the Secretary that does not exceed the aggregate reduction in such limits attributable to clause (i) (without taking into account any adjustment under subclause (IV) of such clause).

''(II) EFFECTIVE DATE.—No increase under subclause (I) shall be permitted or taken into account for a hospital for any portion of a cost reporting period that occurs before July 1, 2003, or before the date of the hospital's application for an increase under this clause. No such increase shall be permitted for a hospital unless the hospital has applied to the Secretary for such increase by December 31, 2004.

''(III) CONSIDERATIONS IN REDISTRIBUTION.—In determining for which hospitals the increase in the otherwise applicable resident limit is provided under subclause (I), the Secretary shall take into account the need for such an increase by specialty and location involved, consistent with subclause (IV).

''(IV) PRIORITY FOR RURAL AND SMALL URBAN AREAS.—In determining for which hospitals and residency training programs an increase in the otherwise applicable resident limit is provided under subclause (I), the Secretary shall first distribute the increase to programs of hospitals located in rural areas or in urban areas that are not large urban areas (as defined for purposes of subsection (d)) on a first-come-first-served basis (as determined by the Secretary) based on a demonstration that the hospital will fill the positions made available under this clause and not to exceed an increase of 25 full-time equivalent positions with respect to any hospital.

''(V) APPLICATION OF LOCALITY ADJUSTED NATIONAL AVERAGE PER RESIDENT AMOUNT.—With respect to additional residency positions in a hospital attributable to the increase provided under this clause, notwithstanding any other provision of this subsection, the approved FTE resident amount is deemed to be equal to the locality adjusted national average per resident amount computed under subparagraph (E) for that hospital.

''(VI) CONSTRUCTION.—Nothing in this clause shall be construed as permitting the redistribution of reductions in residency positions attributable to voluntary reduction programs under paragraph (6) or as affecting the ability of a hospital to establish new medical residency training programs under subparagraph (H).

''(iii) RESIDENT LEVEL AND LIMIT DEFINED.—In this subparagraph:

''(I) RESIDENT LEVEL.—The term 'resident level' means, with respect to a hospital, the total number of full-time equivalent residents, before the application of weighting factors (as determined under this paragraph), in the fields of allopathic and osteopathic medicine for the hospital.

''(II) OTHERWISE APPLICABLE RESIDENT LIMIT.—The term 'otherwise applicable resident limit' means, with respect to a hospital, the limit otherwise applicable under subparagraphs (F)(i) and (H) on the resident level for the hospital determined without regard to this subparagraph.''.

(b) NO APPLICATION OF INCREASE TO IME.—Section 1886(d)(5)(B)(v) (42 U.S.C. 1395ww(d)(5)(B)(v)) is amended by adding at the end the following: ''The provisions of clause (i) of subparagraph (I) of subsection (h)(4) shall apply with respect to the first sentence of this clause in the same manner as it applies with respect to subparagraph (F) of such subsection, but the provisions of clause (ii) of such subparagraph shall not apply.''.

(c) REPORT ON EXTENSION OF APPLICATIONS UNDER REDISTRIBUTION PROGRAM.—Not later than July 1, 2004, the Secretary shall submit to Congress a report containing recommendations regarding whether to extend the deadline for applications for an increase in resident limits under section 1886(h)(4)(I)(ii)(II) of the Social Security Act (as added by subsection (a)).

SEC. 612. INCREASING FOR 5 YEARS TO 100 PERCENT OF THE LOCALITY ADJUSTED NATIONAL AVERAGE PER RESIDENT AMOUNT THE PAYMENT FLOOR FOR DIRECT GRADUATE MEDICAL EDUCATION PAYMENTS UNDER THE MEDICARE PROGRAM.

Section 1886(h)(2)(D)(iii) (42 U.S.C. 1395ww(h)(2)(D)(iii)), as amended by section 511 of BIPA, is amended—

(1) by striking ''and'' after ''70 percent,''; and

(2) by inserting after ''85 percent,'' the following: ''and for cost reporting periods beginning during the period beginning on October 1, 2002, and ending on September 31, 2007, shall not be less than 100 percent,''.

Subtitle C—Other Provisions

SEC. 621. MODIFICATIONS TO MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXAMINATION OF BUDGET CONSEQUENCES.—Section 1805(b) (42 U.S.C. 1395b–6(b)) is amended by adding at the end the following new paragraph:

''(8) EXAMINATION OF BUDGET CONSEQUENCES.—Before making any recommendations, the Commission shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities.''.

(b) CONSIDERATION OF EFFICIENT PROVISION OF SERVICES.—Section 1805(b)(2)(B)(i) (42 U.S.C. 1395b–6(b)(2)(B)(i)) is amended by inserting ''the efficient provision of'' after ''expenditures for''.

(c) ADDITIONAL REPORTS.—

(1) DATA NEEDS AND SOURCES.—The Medicare Payment Advisory Commission shall conduct a study, and submit a report to Congress by not later than June 1, 2003, on the need for current data, and sources of current data available, to determine the solvency and financial circumstances of hospitals and other medicare providers of services. The Commission shall examine data on uncompensated care, as well as the sahre of uncompensated care accounted for by the expenses for treating illegal aliens.

(2) USE OF TAX-RELATED RETURNS.—Using return information provided under Form 990 of the Internal Revenue Service, the Commission shall submit to Congress, by not later than June 1, 2003, a report on the following:

(A) Investments and capital financing of hospitals participating under the medicare program and related foundations.

(B) Access to capital financing for private and for not-for-profit hospitals.

SEC. 622. DEMONSTRATION PROJECT FOR DISEASE MANAGEMENT FOR CERTAIN MEDICARE BENEFICIARIES WITH DIABETES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project under this section (in this section referred to as the ''project'') to demonstrate the impact on costs and health outcomes of applying disease management to certain medicare beneficiaries with diagnosed diabetes. In no case may the number of participants in the project exceed 30,000 at any time.

(b) VOLUNTARY PARTICIPATION.—

(1) ELIGIBILITY.—Medicare beneficiaries are eligible to participate in the project only if—

(a) they are Hispanic, as determined by the Secretary;

(A) they meet specific medical criteria demonstrating the appropriate diagnosis and the advanced nature of their disease;

(B) their physicians approve of participation in the project; and

(C) they are not enrolled in a Medicare+Choice plan.

(2) BENEFITS.—A medicare beneficiary who is enrolled in the project shall be eligible—

(A) for disease management services related to their diabetes; and

(B) for payment for all costs for prescription drugs without regard to whether or not they relate to the diabetes, except that the project may provide for modest cost-sharing with respect to prescription drug coverage.

(c) CONTRACTS WITH DISEASE MANAGEMENT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall carry out the project through contracts with up to three disease management organizations. The Secretary shall not enter into such a contract with an organization unless the organization demonstrates that it can produce improved health outcomes and reduce aggregate medicare expenditures consistent with paragraph (2).

(2) CONTRACT PROVISIONS.—Under such contracts—

(A) such an organization shall be required to provide for prescription drug coverage described in subsection (b)(2)(B);

(B) such an organization shall be paid a fee negotiated and established by the Secretary in a manner so that (taking into account savings in expenditures under parts A and B of the medicare program under title XVIII of the Social Security Act) there will be no net increase, and to the extent practicable, there

will be a net reduction in expenditures under the medicare program as a result of the project; and

(C) such an organization shall guarantee, through an appropriate arrangement with a reinsurance company or otherwise, the prohibition on net increases in expenditures described in subparagraph (B).

(3) PAYMENTS.—Payments to such organizations shall be made in appropriate proportion from the Trust Funds established under title XVIII of the Social Security Act.

(4) WORKING GROUP.—The Secretary shall establish within the Department of Health and Human Services a working group consisting of employees of the Department to carry out the following:

(A) To oversee the project.

(B) To establish policy and criteria for medicare disease management programs within the Department, including the establishment of policy and criteria for such programs.

(C) To identify targeted medical conditions and targeted individuals.

(D) To select areas in which such programs are carried out.

(E) To monitor health outcomes under such programs.

(F) To measure the effectiveness of such programs in meeting any budget neutrality requirements.

(G) Otherwise to serve as a central focal point within the Department for dissemination of information on medicare disease management programs.

(d) APPLICATION OF MEDIGAP PROTECTIONS TO DEMONSTRATION PROJECT ENROLLEES.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to enrollment (and termination of enrollment) in the demonstration project under this section, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

(2) In applying paragraph (1)—

(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) of such Act to 12 months is deemed a reference to the period of the demonstration project; and

(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Health and Human Services.

(e) DURATION.—The project shall last for not longer than 3 years.

(f) WAIVER.—The Secretary of Health and Human Services shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (c)(3).

(g) REPORT.—The Secretary of Health and Human Services shall submit to Congress an interim report on the project not later than 2 years after the date it is first implemented and a final report on the project not later than 6 months after the date of its completion. Such reports shall include information on the impact of the project on costs and health outcomes and recommendations on the cost-effectiveness of extending or expanding the project.

(h) GAO STUDY ON DISEASE MANAGEMENT PROGRAMS.—The Comptroller General of the United States shall conduct a study that compares disease management programs under title XVIII of the Social Security Act with such programs conducted in the private sector, including the prevalence of such programs and programs for case management. The study shall identify the cost-effectiveness of such programs and any savings achieved by such programs. The Comptroller General shall submit a report on such study to Congress by not later than 18 months after the date of the enactment of this Act.

SEC. 623. DEMONSTRATION PROJECT FOR MEDICAL ADULT DAY CARE SERVICES.

(a) ESTABLISHMENT.—Subject to the succeeding provisions of this section, the Secretary of Health and Human Services shall establish a demonstration project (in this section referred to as the ''demonstration project'') under which the Secretary shall, as part of a plan of an episode of care for home health services established for a medicare beneficiary, permit a medical adult day care facility or a home health agency, directly or under arrangements with a medical adult day care facility, to provide medical adult day care services as a substitute for a portion of home health services that would otherwise be provided in the beneficiary's home.

(b) PAYMENT.—

(1) IN GENERAL.—The amount of payment for an episode of care for home health services, a portion of which consists of substitute medical adult day care services, under the demonstration project shall be made at a rate equal to 95 percent of the amount that would otherwise apply for such home health services under section 1895 of the Social Security Act (42 U.S.C. 1395fff). In no case may a a medical adult day care facility or home health agency, or a medical adult day care facility under arrangements with a home health agency, separately charge a beneficiary for medical adult day care services furnished under the plan of care.

(2) BUDGET NEUTRALITY FOR DEMONSTRATION PROJECT.—Notwithstanding any other provision of law, the Secretary shall provide for an appropriate reduction in the aggregate amount of additional payments made under section 1895 of the Social Security Act (42 U.S.C. 1395fff) to reflect any increase in amounts expended from the Trust Funds as a result of the demonstration project conducted under this section.

(c) DEMONSTRATION PROJECT SITES.—The project established under this section shall be conducted in not more than 5 sites in States selected by the Secretary that license or certify providers of services that furnish medical adult day care services.

(d) DURATION.—The Secretary shall conduct the demonstration project for a period of 3 years.

(e) VOLUNTARY PARTICIPATION.—Participation of medicare beneficiaries in the demonstration project shall be voluntary. The total number of such beneficiaries that may participate in the project at any given time may not exceed 15,000.

(f) PREFERENCE IN SELECTING AGENCIES.—In selecting medical adult day care facilities and home health agencies to participate under the demonstration project, the Secretary shall give preference to those facilities and agencies that—

(1) are currently licensed or certified to furnish medical adult day care services; and

(2) have furnished medical adult day care services to medicare beneficiaries for a continuous 2-year period before the beginning of the demonstration project.

(g) WAIVER AUTHORITY.—The Secretary may waive such requirements of title XVIII of the Social Security Act as may be necessary for the purposes of carrying out the demonstration project, other than waiving the requirement that an individual be homebound in order to be eligible for benefits for home health services.

(h) EVALUATION AND REPORT.—The Secretary shall conduct an evaluation of the clinical and cost effectiveness of the demonstration project. Not later 30 months after the commencement of the project, the Secretary shall submit to Congress a report on the evaluation, and shall include in the report the following:

(1) An analysis of the patient outcomes and costs of furnishing care to the medicare beneficiaries participating in the project as compared to such outcomes and costs to beneficiaries receiving only home health services for the same health conditions.

(2) Such recommendations regarding the extension, expansion, or termination of the project as the Secretary determines appropriate.

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH AGENCY.—The term ''home health agency'' has the meaning given such term in section 1861(o) of the Social Security Act (42 U.S.C. 1395x(o)).

(2) MEDICAL ADULT DAY CARE FACILITY.—The term ''medical adult day care facility'' means a facility that—

(A) has been licensed or certified by a State to furnish medical adult day care services in the State for a continuous 2-year period;

(B) is engaged in providing skilled nursing services and other therapeutic services directly or under arrangement with a home health agency;

(C) meets such standards established by the Secretary to assure quality of care and such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the facility; and

(D) provides medical adult day care services.

(3) MEDICAL ADULT DAY CARE SERVICES.—The term ''medical adult day care services'' means—

(A) home health service items and services described in paragraphs (1) through (7) of section 1861(m) furnished in a medical adult day care facility;

(B) a program of supervised activities furnished in a group setting in the facility that—

(i) meet such criteria as the Secretary determines appropriate; and

(ii) is designed to promote physical and mental health of the individuals; and

(C) such other services as the Secretary may specify.

(4) MEDICARE BENEFICIARY.—The term ''medicare beneficiary'' means an individual entitled to benefits under part A of this title, enrolled under part B of this title, or both.

SEC. 624. PUBLICATION ON FINAL WRITTEN GUIDANCE CONCERNING PROHIBITIONS AGAINST DISCRIMINATION BY NATIONAL ORIGIN WITH RESPECT TO HEALTH CARE SERVICES.

Not later than January 1, 2003, the Secretary shall issue final written guidance concerning the application of the prohibition in title VI of the Civil Rights Act of 1964 against national origin discrimination as it affects persons with limited English proficiency with respect to access to health care services under the medicare program.

TITLE VII—MEDICAID AND OTHER HEALTH PROVISIONS

SEC. 701. DSH PROVISIONS.

(a) CONTINUATION OF MEDICAID DSH ALLOTMENT ADJUSTMENTS UNDER BIPA 2000.—

(1) IN GENERAL.—Section 1923(f) (42 U.S.C. 1396r–4(f))—

(A) in paragraph (2)—

(i) in the heading, by striking ''THROUGH 2002'' and inserting ''THROUGH 2000'';

(ii) by striking ''ending with fiscal year 2002'' and inserting ''ending with fiscal year 2000''; and

(iii) in the table in such paragraph, by striking the columns labeled ''FY 01'' and ''FY02'';

(B) in paragraph (3)(A), by striking ''paragraph (2)'' and inserting ''paragraph (4)''; and

(C) in paragraph (4), as added by section 701(a)(1) of BIPA—

(i) by striking ''FOR FISCAL YEARS 2001 AND 2002'' in the heading;

(ii) in subparagraph (A), by striking ''Notwithstanding paragraph (2), the'' and inserting ''The'';

(iii) in subparagraph (C)—

(I) by striking ''NO APPLICATION'' and inserting ''APPLICATION''; and

(II) by striking ''without regard to'' and inserting ''taking into account''.

(2) INCREASE IN MEDICAID DSH ALLOTMENT FOR THE DISTRICT OF COLUMBIA.—

(A) IN GENERAL.—Effective for DSH allotments beginning with fiscal year 2002, the item in the table contained in section 1923(f)(2) of the Social Security Act (42 U.S.C. 1396r–4(f)(2)) for the District of Columbia for the DSH allotment for FY 00 (fiscal year 2000) is amended by striking ''32'' and inserting ''49''.

(B) CONSTRUCTION.—Nothing in subparagraph (A) shall be construed as preventing the application of section 1923(f)(4) of the Social Security Act (as amended by subsection (a)) to the District of Columbia for fiscal year 2002 and subsequent fiscal years.

(b) INCREASE IN FLOOR FOR TREATMENT AS AN EXTREMELY LOW DSH STATE TO 3 PERCENT IN FISCAL YEAR 2002.—

(1) INCREASE IN DSH FLOOR.—Section 1923(f)(5) (42 U.S.C. 1396r–4(f)(5)) is amended—

(A) by striking ''fiscal year 1999'' and inserting ''fiscal year 2001'';

(B) by striking ''August 31, 2000'' and inserting ''August 31, 2002'';

(C) by striking ''1 percent'' each place it appears and inserting ''3 percent''; and

(D) by striking ''fiscal year 2001'' and inserting ''fiscal year 2003''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2002, and apply to DSH allotments under title XIX of the Social Security Act for fiscal year 2003 and each fiscal year thereafter.

SEC. 702. 1-YEAR EXTENSION OF Q–I1 PROGRAM.

Section 1902(a)(10)(E)(E)(iv) (42 U.S.C. 1396a(a)(10)(E)(E)(iv)) is amended by striking ''2002'' and inserting ''2003''.

Mr. GEPHARDT (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

Mr. NUSSLE. Mr. Speaker, I reserve all points of order against this motion, and I object to the unanimous consent request to dispense with the reading.

The SPEAKER pro tempore. The Clerk will continue to read.

The Clerk continued the reading of the motion to recommit.

□ 0130

Mr. GEPHARDT (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. GEPHARDT) is recognized for 5 minutes in support of his motion.

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

Mr. GEPHARDT. Mr. Speaker, I ask Members to vote ''yes'' on this motion to recommit and to vote ''no'' on the Republican plan.

I guess I would like to start tonight's debate with a question: Why did you not allow us to have an alternative to this drug plan? A Democratic House gave Republicans an alternative in 1965 when we debated Medicare. We represent 49 percent of the American people. This is one of the most important issues that we will vote on in this Congress, yet we are not afforded the opportunity to have a clean vote on a clear alternative. Are you afraid? Do you think that too many of Republican Members would vote for our plan?

This process tonight is not worthy of this House of Representatives. This is the people's House. Here the people must be heard. I am deeply disappointed that we were not afforded the opportunity for a clear alternative on this very, very important issue. This is an important issue to all the senior citizens of our country. The Greatest Generation that fought our wars, paid their taxes, raised their children, and made this country great, that Greatest Generation now is too often getting on buses and going to Canada or going to Mexico to get their prescription drugs at prices they can afford. They are making choices between food and taking their drugs. There are senior citizens tonight that are cutting their pills in half because they cannot afford to pay for a whole month's worth.

And tonight, those people are only afforded a vote on a flawed, deficient, wrong plan. If we stack that plan up against what these people are asking for, it fails. It fails. In fact, I would say it is a fraud. I give you what Webster called a fraud: a deception, deliberately practiced to secure unfair or unlawful gain. A piece of trickery. A trick.

The Republican plan has no set premium. They say it might be $35. We are told in States where they have done what the Republicans are doing it is $85. There is no defined benefit. Republicans are turning seniors over to the private insurance market.

This is the same debate that we had in 1965. This is a replay of that debate. If this were 1965, we would not have dreamed of having a Medicare program without a prescription drug benefit. Prescription drugs are now the treatment for most maladies that people face. Why would we not just add this benefit to the Medicare program? Our plan that is in the motion to recommit is simple. It is Medicare: $100 deductible, $25 premium. The government pays 80 percent of the drug cost. The recipient pays 20 percent, and when they hit $2,000 out of pocket, the government picks it all up.

This is what seniors are asking for. They are not asking to go into private insurance. They want a Medicare drug benefit, and they want all the seniors to be amassed to get leverage to get the price of prescription drugs down, down, down.

□ 0145

In the end, I suspect many of you do not support Medicare. I suspect you still want to privatize it. Your plans for Social Security call for privatizing it. In 1965, Republicans predicted Medicare would lead to socialized medicine. One said, ''If we pass Medicare, one day we will be telling our children what it was like in America when people were free.'' Your majority leader has said Medicare is a program that I would have no part of in a free world. He said he deeply resented the fact that when he was 65 he would have to enroll in Medicare.

So you have reverted to form. In the end, this Republican bill listens not to the people of this country. It listens to the pharmaceutical companies and to the insurance companies and is not good for the people's House of Representatives. It should not be passed.

In closing, I would ask all of you to simply tonight think of the people you represent, people like my mother. She is 94 years old. She lives in St. Louis. Every time I go home, she asks me about what is going to happen with the cost of her drugs. She had a stroke about 5 years ago, and the doctor said she will probably never talk again; she will probably never be able to cook or to do household duties. She was able to get the drugs and she is back and she is talking. She is asking me every time I see her about what she is going to do about the cost of her drugs. She has glaucoma and she gets a little bitty bottle of drops that cost $100 a bottle and lasts for 2 weeks. She is lucky. She has got my brother and me, and we send her the money every month so that she can get her drugs.

Think about the thousands of people in your district who are not as lucky as my mother. Think about them. Think about whether they can afford a premium more than $25. Think about whether they can put up with benefits ending in the middle of the year when they cannot get their needed drugs. Think about them when you are not getting the price of drugs down so that they can afford to buy the drugs.

In 1965, this Congress took a historic step, and it passed the greatest program that this country has ever put together. It is the reason that people are living to 80 and 90 and 100 in this country with quality in their lives. We should honor that program tonight and expand it as it should have been many years ago. I am sure there were Members on that day or night in 1965 that voted against the Medicare program and regretted it through the rest of their career and their life. Do not regret your vote tonight. Stand for Medicare and stand for the American people that you represent.

The SPEAKER pro tempore (Mr. THORNBERRY). Any point of order to be reserved on the motion has now been withdrawn.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN) for 5 minutes.

Mr. TAUZIN. Mr. Speaker, there is trickery about this place. There is fraud about this House. We could have a motion to recommit forthwith, but that is not what happened tonight. What happened tonight was a motion to recommit promptly. My friend, the chairman of Ways and Means, will explain in just a minute the trickery in that motion.

You see, that motion has a very special effect regarding this debate tonight and the possibility of us passing a prescription drug benefit for the seniors of America tonight. The gentleman from California will explain it to you in just a minute. But if we were to even consider the proposal offered in this motion to recommit seriously, it is almost identical, I believe, to the proposal that was made before the Committee on Energy and Commerce.

It has been scored by CBO now at $971 billion, although our budget, as you know, allocated $350 billion to this effort. It is more expensive than the plan prepared on the Senate side by Senator BOB GRAHAM. The BOB GRAHAM plan is estimated to drive Medicare into insolvency by the year 2016. Just imagine how much sooner Medicare goes bankrupt under the plan our friends on the other side are offering in the motion to recommit.

That is saving the Medicare program, driving it into bankruptcy? We are not alone in that assessment. The AARP looked at our plans, too; and this is what they said about ours: ''We appreciate your efforts to contain drug costs, because a Medicare drug benefit alone without effective cost controls will be difficult to sustain as our growing population of older Americans increases its drug utilization.''

Our assessment in the committee of this plan, believe it or not, actually raises drug prices to seniors. We asked CBO a simple question. We asked CBO if the Medicare Modernization and Prescription Drug Act before us that we presented to this House tonight would lower drug expenditures more than any other House bill introduced in the Congress and scored by CBO, and this is what they responded: ''The answer to your question is yes.'' Yes, lower drug costs. Yes, prescription drug benefits for our seniors. Tonight, not promptly. Yes, it is time to pass this bill tonight for all our moms and dads.

Mr. Speaker, I yield to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. I thank the gentleman for yielding.

The gentleman from Missouri mentioned several times 1965; 1965 was 10 years before a Member of this Congress was born, ADAM PUTNAM. For more than 30 of those 37 years, you were in the majority. You never put prescription drugs in Medicare. You had your chance. You never did. And your argument is that you have now in front of us a plan.

The gentleman from Missouri read a definition from Webster's. What my mother would have said, you should have washed your mouth out, because for you to cite the definition of fraud and call it trickery is for everyone to understand what this motion to recommit really is. It is a little word called ''forthwith.'' If this motion had said Mr. GEPHARDT moves to recommit the bill forthwith, it would not have been fraud, and it would not have been trickery. But because that little word is missing and it requires it to be reported promptly, the effect of this motion to recommit is to kill this bill. All of the statements that the gentleman from Missouri made in the well were simply trickery, it was a fraud, because this bill cannot come back and be made law. You are wasting the House's time. Obviously, some of you do not understand the rules under which this House operates.

Mr. Speaker, had they had the guts to put ''forthwith'' in this motion to recommit, this bill would have come back to the floor, and we could have debated it. You did not put ''forthwith'' in it. Your motion to recommit is a motion to kill the bill.

Mr. WALDEN of Oregon. Mr. Speaker, the House is not in order. The gentleman deserves to be heard as was the minority leader.

The SPEAKER pro tempore. The House will be in order.

Mr. THOMAS. Actually, nobody deserves to be heard on this motion to recommit. It is 119 pages of nothing. The way you constructed it, knowingly and on purpose, was to pull a charade on seniors. Nothing in this bill will be available to seniors because you did not put a little word in there, a word that would have proved honesty, a word that would have proved courage, a word that would have let seniors know——

Mr. TAUZIN. Mr. Speaker, the House is not in order.

Mr. Speaker, we listened very patiently to the minority leader. I believe the gentleman deserves to be heard.

The SPEAKER pro tempore. The time in opposition to the motion to recommit has expired.

Mr. THOMAS. Mr. Speaker, I urge my colleagues to vote ''no'' on the motion to recommit.

The SPEAKER pro tempore. 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. DINGELL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 204, noes 223, not voting 8, as follows:

[Roll No. 281]

AYES—204

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thurman
Tierney
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—223

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte

Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
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 (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
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
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—8

Clay
Gutierrez
Jefferson
Paul
Roukema
Thompson (MS)
Towns
Traficant

□ 0215

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. THORNBERRY.) 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. PALLONE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 208, not voting 6, as follows:

[Roll No. 282]

AYES—221

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Combest
Condit
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Everett
Ferguson
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
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)
Maloney (CT)
Matheson
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
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
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
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)

NOES—208

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clayton
Clement
Clyburn
Collins
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Gutknecht
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Inslee
Istook
Jackson (IL)
Jackson-Lee (TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (NY)
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (MI)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—6

Clay
Jefferson
Paul
Roukema
Towns
Traficant

□ 0232

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUPPORT OF AMERICAN EAGLE SILVER BULLION PROGRAM ACT

Mr. TIBERI. Mr. Speaker, I ask unanimous consent that the Committee on Financial Services be discharged from further consideration of the Senate bill (S. 2594) to authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2594

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 ''Support of American Eagle Silver Bullion Program Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the American Eagle Silver Bullion coin leads the global market, and is the largest and most popular silver coin program in the United States;

(2) established in 1986, the American Eagle Silver Bullion Program is the most successful silver bullion program in the world;

(3) from fiscal year 1995 through fiscal year 2001, the American Eagle Silver Bullion Program generated—

(A) revenues of $264,100,000; and

(B) sufficient profits to significantly reduce the national debt;

(4) with the depletion of silver reserves in the Defense Logistic Agency's Strategic and Critical Materials Stockpile, it is necessary for the Department of the Treasury to acquire silver from other sources in order to preserve the American Eagle Silver Bullion Program;

(5) with the ability to obtain silver from other sources, the United States Mint can continue the highly successful American Eagle Silver Bullion Program, exercising sound business judgment and market acquisition practices in its approach to the silver market, resulting in continuing profitability of the program;

(6) in 2001, silver was commercially produced in 12 States, including, Alaska, Arizona, California, Colorado, Idaho, Missouri, Montana, Nevada, New Mexico, South Dakota, Utah, and Washington;

(7) Nevada is the largest silver producing State in the Nation, producing—

(A) 17,500,000 ounces of silver in 2001; and

(B) 34 percent of United States silver production in 2000;

(8) the mining industry in Idaho is vital to the economy of the State, and the Silver Valley in northern Idaho leads the world in recorded silver production, with over 1,100,000,000 ounces of silver produced between 1884 and 2001;

(9) the largest, active silver producing mine in the Nation is the McCoy/Cove Mine in Nevada, which produced more than 107,000,000 ounces of silver between 1989 and 2001;

(10) the mining industry in Idaho—

(A) employs more than 3,000 people;

(B) contributes more than $900,000,000 to the Idaho economy; and

(C) produces $70,000,000 worth of silver per year;

(11) the silver mines of the Comstock lode, the premier silver producing deposit in Nevada, brought people and wealth to the region, paving the way for statehood in 1864, and giving Nevada its nickname as ''the Silver State'';

(12) mines in the Silver Valley—

(A) represent an important part of the mining history of Idaho and the United States; and

(B) have served in the past as key components of the United States war effort; and

(13) silver has been mined in Nevada throughout its history, with every significant metal mining camp in Nevada producing some silver.

SEC. 3. PURCHASE OF SILVER BY THE SECRETARY OF THE TREASURY.

(a) PURCHASE OF SILVER.—

(1) IN GENERAL.—Section 5116(b)(2) of title 31, United States Code, is amended by inserting after the second sentence the following: ''At such time as the silver stockpile is depleted, the Secretary shall obtain silver as described in paragraph (1) to mint coins authorized under section 5112(e). If it is not economically feasible to obtain such silver, the Secretary may obtain silver for coins authorized under section 5112(e) from other available sources. The Secretary shall not pay more than the average world price for silver under any circumstances. As used in this paragraph, the term 'average world price' means the price determined by a widely recognized commodity exchange at the time the silver is obtained by the Secretary.''.

(2) RULEMAKING AUTHORITY.—The Secretary of the Treasury shall issue regulations to implement the amendments made by paragraph (1).

(b) STUDY REQUIRED.—

(1) STUDY.—The Secretary of the Treasury shall conduct a study of the impact on the United States silver market of the American Eagle Silver Bullion Program, established under section 5112(e) of title 31, United States Code.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report of the study conducted under paragraph (1) to the chairman and ranking minority member of—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Financial Services of the House of Representatives.

(c) ANNUAL REPORT.—

(1) IN GENERAL.—The Director of the United States Mint shall prepare and submit to Congress an annual report on the purchases of silver made pursuant to this Act and the amendments made by this Act.

(2) CONCURRENT SUBMISSION.—The report required by paragraph (1) may be incorporated into the annual report of the Director of the United States Mint on the operations of the mint and assay offices, referred to in section 1329 of title 44, United States Code.

Mr. OXLEY. Mr. Speaker, I rise today in support of S. 2594, the Support of American Eagle Silver Bullion Program Act.

The language is identical to language introduced in the House by the gentleman from Idaho, Mr. OTTER, as H.R. 4971, and virtually identical to language passed 417–1 by the House Tuesday in H.R. 4846, a larger bill authored by the gentleman from Oklahoma, Mr. LUCAS.

Mr. Speaker, the American Silver Eagle coin program is the most successful silver bullion coin program in the world. Since its introduction in 1983, nearly 115 million of the one-troy-ounce silver coins have been sold. The coin now controls roughly 80 percent of the silver bullion coin market in the world.

The silver for the coin is .999 fine, much more pure than the old ''cartwheel'' silver dollars, such as the Morgan dollar, that used to be issued by the United States and which were 90 percent pure.

Silver for the coin has come since the coin's inception from the United States strategic stockpile of silver, as mandated in law. However, a decade ago Congress, noting reduced need, ordered that stockpile and several others sold off, and earlier this month the last of the stockpile was delivered to processors for refining and to be turned into the blanks from which the coins eventually will be struck. While the United States Mint will have adequate coin blanks to meet demand for several weeks yet, I am told the refiners will have to start layoffs of key staff shortly after the Fourth of July if this legislation is not immediately passed and sent to the President.

Mr. Speaker, the silver industry is important to the economy of the United States, and preservation of jobs is an important foal of the Financial Services Committee, especially as this Nation's economy comes out of the doldrums in which it has stood for more than a year. To that end I believe we must pass this legislation and do so quickly, and I ask its immediate approval.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TIBERI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on S. 2594, the Senate bill just passed.

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

There was no objection.

CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Pursuant to House Resolution 461, the Chair lays before the House the following Senate concurrent resolution:

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 125

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, June 27, 2002, or Friday, June 28, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Monday, July 8, 2002, or until such other time on that day as may be specified in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, June 27, 2002, Friday, June 28, 2002, or Saturday, June 29, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Monday, July 8, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON TUESDAY, JULY 9, 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, July 8, 2002, it adjourn to meet at 10:30 a.m. on Tuesday, July 9, for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 10, 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday

rule be dispensed with on Wednesday, July 10, 2002.

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

There was no objection.

AUTHORIZING THE SPEAKER, THE MAJORITY LEADER, AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, July 8, 2002, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

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

There was no objection.

APPOINTMENT OF HON. WAYNE T. GILCHREST OR HON. TOM DAVIS OF VIRGINIA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JULY 8, 2002

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 27, 2002.

I hereby appoint the Honorable WAYNE T. GILCHREST or, if not available to perform this duty, the Honorable TOM DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 8, 2002.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is agreed to.

There was no objection.

REVISIONS TO THE 302(a) ALLOCATIONS TO PERMIT THE CONSIDERATION OF H.R. 4954, THE MEDICARE MODERNIZATION AND PRESCRIPTION DRUG ACT OF 2002

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, pursuant to section 202 of H. Con. Res. 353, the concurrent resolution on the Budget for Fiscal Year 2003, I am submitting revisions to the 302(a) allocations to permit the consideration of H.R. 4954, the Medicare Modernization and Prescription Drug Act of 2002.

Under section 231(d) of H. Con. Res. 353 a separate 302(a) allocation was established for legislation providing a prescription drug benefit, Medicare modernization, and various adjustments for the Medicare program. Section 202 of that resolution permits the chairman of the Budget Committee to increase this allocation for both budget authority and outlays by an amount not to exceed $5 billion in fiscal year 2003 and $350 billion over 10 years for such legislation.

H.R. 4954 establishes a prescription drug benefit in Medicare, adjust certain payments under Medicare, and modernizes Medicare through a Medicare+Choice Competition Program, regulatory reform and a prescription drug discount card. As reported by the Committee on Ways and Means and modified by H. Res. 465, the bill would provide for the Medicare policies delineated in section 202, $4.650 billion in new budget authority and $4.575 billion in outlays for fiscal year 2003. For the 10-year period of 2003 through 2012, this bill would provide $347.270 billion in new budget authority and outlays for such policies.

Accordingly, I am revising the 302(a) allocation for Medicare policies for fiscal year 2003 by $4.650 billion in new budget authority and $4.575 billion in outlays and, for the period of fiscal years 2003 through 2012, by $347.270 billion in new budget authority and outlays.

Pursuant to section 202 of H. Con. Res. 353, the concurrent resolution on the Budget for Fiscal Year 2003, I have adjusted the 302(a) allocation of new budget authority for Medicare (as printed in the CONGRESSIONAL RECORD on May 22, 2002) by $4.650 billion in additional budget authority for fiscal year 2003 and by $347.270 billion in additional budget authority for the period of 2003 through 2012.

Under the special rule set forth in section 231(d) of H. Con. Res. 353, the applicable allocation for H.R. 4954 is the 302(a) allocation for Medicare for fiscal year 2003 and for the period of fiscal years 2003 through 2012 that was printed in the CONGRESSIONAL RECORD on May 22, 2002.

As reported by the Committee on Ways and Means and modified by H. Res. 465, the bill provides $4.650 billion in new budget authority in fiscal year 2003 and $347.270 billion for the period of 2003 through 2012 for the purposes specified in section 202 of H. Con. Res. 353. Hence, the amount of new budget authority related to the Medicare policies set forth in section 202 is equal to the adjusted 302(a) allocation for the applicable periods.

If no further adjustments are made to this allocation, any amendment that would provide any additional new budget authority for Medicare, relative to the bill as amended by the rule, in fiscal year 2003 or for the period of fiscal years 2003 through 2012 would exceed the 302(a) allocation in violation of section 302(f) of the Congressional Budget Act of 1974.

Section 302(f) of the Congressional Budget Act prohibits the consideration of amendments that, if enacted, would exceed the appropriate allocation of budget authority made pursuant to section 302(a) for the first year and the total of all fiscal years covered by the applicable budget resolution.

In addition, the bill provides $0.380 billion in new budget authority in fiscal year 2003 and $1.380 billion over the period of fiscal years 2003 through 2007 that is unrelated to the Medicare policies delineated in section 202. Such spending is therefore subject to the general purpose allocation of the Committee on Ways and Means. Any amendment making changes unrelated to the Medicare policies delineated in section 202 that provides in excess of $1.823 billion in new budget authority in fiscal year 2003 or $6.475 billion for the period of fiscal years 2003 through 2007 would also exceed the appropriate 302(a) allocation in violation of Section 302(f).

This statement is issued in accordance with section 312(a) of the Congressional Budget Act.

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. ARMEY) to revise and extend their remarks and include extraneous material:)

Mr. WELDON of Florida, for 5 minutes, today.

Mr. NUSSLE, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1041. An act to establish a program for an information clearinghouse to increase public access to defibrillation in schools; to the Committee on Energy and Commerce, in addition to the Committee on Education and the Workforce 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.

S. 1646. An act to identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System; to the Committee on Transportation and Infrastructure.

S. 2690. An act to reaffirm the reference to one Nation under God in the Pledge of Allegiance; to the Committee on the Judiciary.

ADJOURNMENT

Mr. ARMEY. Mr. Speaker, pursuant to Senate Concurrent Resolution 125, 107th Congress, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to Senate Concurrent Resolution 125, 107th Congress, the House stands adjourned until 2 p.m. on Monday, July 8, 2002.

Thereupon (at 2 o'clock and 38 minutes a.m.), pursuant to Senate Concurrent Resolution 125, the House adjourned until Monday, July 8, 2002.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7689. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Gregory S. Newbold, United States Marine Corps, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

7690. A letter from the Deputy Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral George P. Nanos, Jr., United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

7691. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule — Home Mortgage Disclosure [Regulation C; Docket No. R-1120] received June 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7692. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Commission Guidance on the Application of Certain Provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and Rules thereunder to Trading in Security Futures Products [Release Nos. 33-8107; 34-46101; File No. S7-23-02] received June 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7693. A letter from the Director, Office of Management and Budget, transmitting a report on the Cost Estimate For Pay-As-You-Go Calculations; to the Committee on the Budget.

7694. A letter from the Assistant Secretary, Department of Education, transmitting Final Priorities —— Capacity Building for Traditionally Underserved Populations, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

7695. A letter from the Regulations Officer, FMCSA, Department of Transportation, transmitting the Department's final rule — Parts and Accessories Necessary for Safe Operation; Trailer Conspicuity [FMCSA Docket FMCSA-1997-2222] received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7696. A letter from the General Counsel, Federal Energy Regulation Commission, transmitting the Commission's final rule — Revised Public Utility Filing Requirements (Docket No. RM01-8-000; Order No. 2001) received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7697. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Finland [Transmittal No. DTC 060-02], pursuant to 22 U.S.C. 2776(c) and 22 U.S.C. 2776(d); to the Committee on International Relations.

7698. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting the Department of the Air Force's proposed lease of defense articles to the Government of Singapore (Transmittal No. 06-02), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

7699. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting the Department of the Air Force's proposed lease of defense articles to the Federal Republic of Germany (Transmittal No. 05-02), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

7700. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Canada for defense articles and services (Transmittal No. 02-31), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

7701. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to Pakistan [Transmittal No. DTC 62-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7702. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to Pakistan [Transmittal No. DTC 76-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7703. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to Pakistan [Transmittal No. DTC 72-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7704. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to Pakistan [Transmittal No. DTC 63-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7705. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to Pakistan [Transmittal No. DTC 77-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7706. A letter from the Secretary, Department of Energy, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2001 through March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(d); to the Committee on Government Reform.

7707. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued or released in April 2002, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform.

7708. A letter from the Chair, Equal Employment Opportunity Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2001 through March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

7709. A letter from the Acting Chairman, Consumer Product Safety Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2001 through March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

7710. A letter from the Executive Director, Federal Labor Relations Authority, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2001, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

7711. A letter from the Chairman, Federal Trade Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2001, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

7712. A letter from the Chairman, National Science Board, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2001 through March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

7713. A letter from the Acting Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting notice on leasing systems for the Central Gulf of Mexico, Sale 182, scheduled to be held on March 20, 2002, pursuant to 43 U.S.C. 1337(a)(8); to the Committee on Resources.

7714. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Kentucky Regulatory Program [KY-222-FOR] received June 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7715. A letter from the Deputy Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Concession Contracts (RIN: 1024-AC88) received June 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7716. A letter from the Deputy Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — National Capital Region, Special Regulations (RIN: 1024-AC76) received June 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7717. A letter from the Commissioner, National Indian Gaming Commission, transmitting the Commission's final rule — Definitions: Electronic, Computer or Other Technologic Aid; Electromechanical Facsimile; Game Similar to Bingo (RIN: 3141-AA10) received June 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7718. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting the Department's final rule — Visas: Removal of Visa and Passport Waiver for Certain Permanent Residents of Canada and Bermuda — received June 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

7719. A letter from the Director, Foreign Terrorist Tracking, Department of Justice, transmitting the Department's final rule — Screening of Aliens and Other Designated Individuals Seeking Flight Training (RIN: 1105-AA80) received June 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7720. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Regulated Navigation Area; Chesapeake Bay entrance and Hampton Roads, VA and adjacent waters [CGD05-01-046] (RIN: 2115-AE84) received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7721. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Gulf Intracoastal Waterway, Boca Grande, Charlotte County, Florida [CGD07-00-129] (RIN: 2115-AE47) received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7722. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Operation Native Atlas 2002, Waters adjacent to Camp Pendleton, California [COTP San Diego 02-001] (RIN: 2115-AA97) received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7723. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Back River, ME [CGD01-01-144] (RIN: 2115-AE47) received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7724. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Protection of naval vessels [PAC AREA-01-001] (RIN: 2115-AG23) received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7725. A letter from the Attorney/Advisor, Department of Transportation, transmitting the Department's final rule — Air Carrier Traffic and Capacity Data By Nonstop Segment and On-Flight Market [Docket No. OST 98-4043] (RIN: 2139-AA08) received June 20,

2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7726. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Annuities (Rev. Rul. 2002-39) received June 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7727. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Revenue Procedure 2002-45) received June 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7728. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Cafeteria Plans (Rev. Rul. 2002-32) received June 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7729. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Treaty Guidance Regarding Payments With Respect to Domestic Reverse Hybrid Entities [TD 8999] (RIN: 1545-AY13) received June 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7730. A letter from the Secretary, Department of Transportation, transmitting the Department's fifth/sixth report in the series entitled, ''Effectiveness of Occupant Protection Systems and Their Use,'' pursuant to Public Law 102—240, section 2508(e) (105 Stat. 2086); jointly to the Committees on Energy and Commerce and Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mrs. KELLY (for herself, Mr. JACKSON of Illinois, and Mr. FLETCHER):

H.R. 5031. A bill to expand research regarding inflammatory bowel disease, and for other purposes; to the Committee on Energy and Commerce.

By Mr. THOMPSON of California:

H.R. 5032. A bill to authorize the Secretary of Agriculture to convey certain National Forest System lands in the Mendocino National Forest, California, to authorize the use of the proceeds from such conveyances for National Forest purposes, and for other purposes; to the Committee on Resources.

By Mr. ARMEY (for himself, Mr. LIPINSKI, Mr. BOEHNER, Mr. WATTS of Oklahoma, Mr. HOEKSTRA, Mr. SAM JOHNSON of Texas, Mr. SCHAFFER, Mr. COX, Mr. BURTON of Indiana, Mr. CRANE, Mr. FLAKE, Mr. MANZULLO, Mr. DAN MILLER of Florida, Mr. PITTS, Mr. SHADEGG, Mr. SHAYS, Mr. TIBERI, Mr. WALSH, Mr. WELLER, and Mr. WICKER):

H.R. 5033. A bill to provide scholarships for District of Columbia elementary and secondary students, and for other purposes; to the Committee on Government Reform.

By Mr. CLYBURN (for himself, Mr. BROWN of South Carolina, Mr. DEMINT, Mr. GRAHAM, Mr. SPRATT, and Mr. WILSON of South Carolina):

H.R. 5034. A bill to authorize the President to posthumously award a gold medal on behalf of the Congress in honor of Rev. Joseph A. De Laine, in recognition of his contributions to the Nation; to the Committee on Financial Services.

By Mr. FLETCHER (for himself, Mr. HAYES, Mr. BISHOP, Mr. ROGERS of Kentucky, Mr. WHITFIELD, Mr. LEWIS of Kentucky, Mr. LUCAS of Kentucky, and Mr. HILLEARY):

H.R. 5035. A bill to replace the existing Federal price support and quota programs for tobacco with price support and quota programs designed to assist the actual producers of tobacco, to compensate quota holders for the loss of tobacco quota asset value, to provide assistance for active tobacco producers, including those producers who forgo obtaining a tobacco production license, during the transition of the new programs, and for other purposes; to the Committee on Agriculture.

By Mrs. DAVIS of California:

H.R. 5036. A bill to amend the Elementary and Secondary Education Act of 1965 to reserve funds to provide special training, technical assistance, and professional development to eligible entities implementing Even Start programs and to the staff of such programs, and for other purposes; to the Committee on Education and the Workforce.

By Mr. DEFAZIO (for himself, Mr. BROWN of Ohio, Mr. STARK, Mr. GEORGE MILLER of California, Mr. CROWLEY, Mr. FILNER, Ms. WOOLSEY, Mr. JACKSON of Illinois, Ms. NORTON, Ms. ROYBAL-ALLARD, and Mr. DOGGETT):

H.R. 5037. A bill to require prescription drug manufacturers, packers, and distributors to disclose certain gifts provided in connection with detailing, promotional, or other marketing activities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FILNER:

H.R. 5038. A bill to prohibit the importation of electricity into the United States from Mexico if produced in electric energy generation units near the United States border that do not comply with air quality control requirements that provide air quality protection that is at least equivalent to the protection provided by the requirements applicable to the United States; to the Committee on International Relations.

By Mr. GIBBONS:

H.R. 5039. A bill to direct the Secretary of the Interior to convey title to certain irrigation project property in the Humboldt Project, Nevada, to the Pershing County Water Conservation District, Pershing County, Lander County, and the State of Nevada; to the Committee on Resources.

By Mr. CONYERS (for himself, Mrs. JONES of Ohio, Mr. HONDA, Mr. GORDON, Mr. WYNN, Ms. KILPATRICK, Mr. HILLIARD, Ms. DELAURO, Mr. WAXMAN, Ms. WOOLSEY, Mr. GUTIERREZ, Mr. LIPINSKI, Mr. UNDERWOOD, Ms. MCCOLLUM, Ms. LEE, Mr. LANTOS, Mr. FROST, and Mr. BONIOR):

H.R. 5040. A bill to amend the Toxic Substances Control Act, the Internal Revenue Code of 1986, and the Public Buildings Act of 1959 to protect human health from toxic mold, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Financial Services, Ways and Means, and 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. HANSEN:

H.R. 5041. A bill to amend the Immigration and Nationality Act concerning loss of nationality for actions supporting terrorism against the United States; to the Committee on the Judiciary.

By Mr. HEFLEY:

H.R. 5042. A bill to authorize the Secretary of Veterans Affairs to construct, lease, or modify major medical facilities at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado; to the Committee on Veterans' Affairs.

By Mr. HILL (for himself and Mr. MATSUI):

H.R. 5043. A bill to provide that the marriage penalty relief provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent whenever the actual on-budget budget of the Government is in balance or surplus and the Director of the Office of Management and Budget determines that this Act will not cause on-budget deficits; to the Committee on Ways and Means.

By Mr. HOLT (for himself, Mr. SHAYS, Mr. HALL of Ohio, Mrs. DAVIS of California, Mr. MCDERMOTT, Mr. CROWLEY, Mr. FRANK, Mr. GEORGE MILLER of California, Mr. CLEMENT, Mr. CAPUANO, Ms. RIVERS, Mr. WAXMAN, Mr. FILNER, Mr. BLUMENAUER, Mr. DEFAZIO, Mr. UDALL of Colorado, Mr. BROWN of Ohio, Mr. HINCHEY, Mrs. MALONEY of New York, Ms. MCKINNEY, Ms. LEE, Mrs. MINK of Hawaii, Mr. MARKEY, Mr. BOUCHER, Mr. SMITH of Washington, Mr. SHERMAN, Mr. HOEFFEL, Mr. MORAN of Virginia, Mr. BECERRA, Mr. PALLONE, Mr. KENNEDY of Rhode Island, Mr. CLAY, Mr. ROTHMAN, Mr. STARK, Mr. ANDREWS, Ms. BROWN of Florida, Ms. DELAURO, Ms. DEGETTE, Ms. MCCARTHY of Missouri, Mr. LANGEVIN, Mr. HONDA, Mr. TOWNS, Ms. WOOLSEY, Mrs. NAPOLITANO, Mr. SCHIFF, Mr. LANTOS, Mrs. JOHNSON of Connecticut, Mr. ENGEL, Ms. ROYBAL-ALLARD, Mr. WEXLER, Mr. MCGOVERN, Mr. SERRANO, Ms. SOLIS, Mr. MCNULTY, Mrs. LOWEY, Mr. FORD, Ms. SLAUGHTER, Mr. PAYNE, Ms. LOFGREN, Mr. LARSON of Connecticut, Ms. ESHOO, Mr. MALONEY of Connecticut, Mr. MENENDEZ, Mr. PASCRELL, Mr. JEFFERSON, Mr. ISRAEL, Mr. WU, Mr. WEINER, Mr. PRICE of North Carolina, Mr. EVANS, Mr. MOORE, Mr. INSLEE, Mr. DOOLEY of California, Mr. DOGGETT, Mr. KIRK, Mr. SIMMONS, Mrs. MORELLA, Mr. FARR of California, Mr. DEUTSCH, Mr. NADLER, Mr. COYNE, Mr. KUCINICH, Mr. OLVER, Ms. SCHAKOWSKY, Mr. HASTINGS of Florida, Mr. ABERCROMBIE, Mr. CONYERS, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Mr. LEVIN, Ms. NORTON, Mr. TIERNEY, Mrs. TAUSCHER, Mrs. CAPPS, Mr. CARSON of Oklahoma, Ms. PELOSI, Mr. UDALL of New Mexico, Mr. MEEHAN, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. GREEN of Texas, Mr. MEEKS of New York, Mr. DELAHUNT, Mr. LYNCH, Mr. ROEMER, Mr. FROST, Mr. MATSUI, Ms. WATERS, Mr. BRADY of Pennsylvania, Mr. RANGEL, Ms. VELAZQUEZ, Mr. BACA, Mr. BAIRD, Mr. ACKERMAN, Mr. DINGELL, Ms. BERKLEY, Mrs. CLAYTON, Mr. BORSKI, Mr. FATTAH, Mr. GUTIERREZ, Mr. DAVIS of Illinois, Mr. GONZALEZ, Ms. HOOLEY of Oregon, Ms. WATSON, and Mr. GILCHREST):

H.R. 5044. A bill to require the Secretary of the Interior to implement the final rule to phase out snowmobile use in Yellowstone National Park, John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park, and snowplane use in Grand Teton National Park; to the Committee on Resources.

By Mr. LEACH (for himself, Mr. NUSSLE, and Mr. LATHAM):

H.R. 5045. A bill to provide for equity in payments under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on 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. MCINNIS (for himself, Mr. SOUDER, Mr. UDALL of Colorado, Mr. SCHAFFER, and Mr. HAYWORTH):

H.R. 5046. A bill to provide for the use of private and appropriated funds for certain facilities related to Mesa Verde National Park; to the Committee on Resources.

By Mr. DAN MILLER of Florida (for himself and Mr. LYNCH):

H.R. 5047. A bill to establish the National Center on Liver Disease Research, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GEORGE MILLER of California (for himself, Mr. ANDREWS, Mr. DOGGETT, Ms. LEE, Mr. SHOWS, Mrs. MINK of Hawaii, Mrs. NAPOLITANO, Ms. WOOLSEY, Mr. CONYERS, Mr. TIERNEY, Mr. DELAHUNT, Mr. CAPUANO, Mr. MEEHAN, Ms. WATERS, Mr. TAYLOR of Mississippi, Mr. KLECZKA, Mr. STARK, Ms. SCHAKOWSKY, Ms. JACKSON-LEE of Texas, Ms. DELAURO, Ms. SANCHEZ, Mr. NADLER, Ms. SOLIS, and Mr. ABERCROMBIE):

H.R. 5048. A bill to prohibit corporations from making loans to their officers, directors, and principal shareholders; to the Committee on Financial Services.

By Mr. NEY:

H.R. 5049. A bill to amend title 28, United States Code, to provide for an additional place of holding court in the Southern District of Ohio; to the Committee on the Judiciary.

By Mr. GREENWOOD (for himself, Mr. TAUZIN, Mr. STEARNS, Mr. TOWNS, Mr. BARTON of Texas, Mr. HALL of Texas, Mr. GILLMOR, Mr. BILIRAKIS, Mr. UPTON, Mr. COX, Mr. HORN, Mr. TOM DAVIS of Virginia, Mr. MCKEON, Mr. LAHOOD, Mrs. JOHNSON of Connecticut, Mr. SHAYS, Mr. HOUGHTON, Mrs. MORELLA, Mr. TOOMEY, Mr. PETERSON of Pennsylvania, Mr. SIMMONS, Mr. PLATTS, Mr. GILCHREST, Mr. LEACH, Mr. BASS, Mr. WHITFIELD, and Mr. BUYER):

H.R. 5050. A bill to establish the Market Integrity Commission to study issues relating to the governance of corporations in interstate and foreign commerce; to the Committee on Energy and Commerce.

By Mr. PALLONE (for himself, Mr. HAYWORTH, and Mr. UDALL of Colorado):

H.R. 5051. A bill to enhance the criminal penalties for illegal trafficking of archaeological resources, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Resources, 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. PORTMAN (for himself, Mr. CARDIN, and Mr. WATTS of Oklahoma):

H.R. 5052. A bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes; to the Committee on Ways and Means.

By Mr. RADANOVICH (for himself, Mr. JONES of North Carolina, Mr. SIMPSON, Mr. CANNON, Mr. OTTER, Mr. WALDEN of Oregon, and Mr. HASTINGS of Washington):

H.R. 5053. A bill to provide full funding for the payment in lieu of taxes program for the next five fiscal years, to protect local jurisdictions against the loss of property tax revenues when private lands are acquired by a Federal land management agency, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, 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. ROGERS of Michigan:

H.R. 5054. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to qualified tuition programs; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself and Mr. EVANS):

H.R. 5055. A bill to authorize the placement in Arlington National Cemetery of a memorial honoring the World War II veterans who fought in the Battle of the Bulge; to the Committee on Veterans' Affairs.

By Mr. SMITH of New Jersey:

H.R. 5056. A bill to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence; to the Committee on International Relations, and in addition to the Committees on the Judiciary, Financial Services, and 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 Mr. SMITH of Texas (for himself, Mr. KELLER, Mr. SCOTT, Mr. SCHIFF, Mr. ISSA, and Mr. DOGGETT):

H.R. 5057. A bill to prevent and punish counterfeiting and copyright piracy, and for other purposes; to the Committee on the Judiciary.

By Mr. STEARNS (for himself, Mr. GREENWOOD, Mr. BILIRAKIS, Mr. BARTON of Texas, Mr. UPTON, Mr. GILLMOR, Mr. WALDEN of Oregon, Mr. TERRY, and Mr. TAUZIN):

H.R. 5058. A bill to preserve the integrity of the establishment of accounting standards by the Financial Accounting Standards Board, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STEARNS (for himself, Mr. TOWNS, Mr. CLYBURN, Mr. HALL of Ohio, Mr. TAYLOR of North Carolina, Mr. CONDIT, Mr. SPRATT, Mr. GRAHAM, Mr. WATKINS, and Mr. PITTS):

H.R. 5059. A bill to amend the Consumer Product Safety Act to provide for fire safety standards for cigarettes, and for other purposes; to the Committee on Energy and Commerce.

By Mr. THOMPSON of California (for himself, Mr. ABERCROMBIE, Mr. BERMAN, Mr. BOSWELL, Mr. BOYD, Mrs. DAVIS of California, Mr. FARR of California, Mr. FILNER, Mr. HOLDEN, Mr. HUNTER, Mr. ISRAEL, Mr. JOHN, Mr. BERRY, Mr. MATHESON, Mr. GEORGE MILLER of California, Mr. MOORE, Mr. MURTHA, Ms. PELOSI, Mr. POMBO, Mr. SANDLIN, Mr. SCHIFF, Mr. SHERMAN, Mr. STENHOLM, Mr. TAYLOR of Mississippi, Mr. TURNER, Ms. WATSON, Mr. CRAMER, Mr. CHAMBLISS, and Mr. BILIRAKIS):

H.R. 5060. A bill to provide for the disclosure of information on projects of the Department of Defense, such as Project 112 and the Shipboard Hazard and Defense Project (Project SHAD), that included testing of biological or chemical agents involving potential exposure of members of the Armed Forces to toxic agents, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, 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 Ms. WOOLSEY:

H.R. 5061. A bill to amend part D of title IV of the Social Security Act to improve the collection of child support arrears in interstate cases; to the Committee on Ways and Means.

By Mr. GREEN of Texas:

H.J. Res. 103. A joint resolution proposing an amendment to the Constitution of the United States with respect to the Pledge of Allegiance; to the Committee on the Judiciary.

By Mr. LUCAS of Oklahoma:

H.J. Res. 104. A joint resolution proposing an amendment to the Constitution of the United States to protect the Pledge of Allegiance; to the Committee on the Judiciary.

By Mr. DAVIS of Florida (for himself, Mr. BEREUTER, Mr. CROWLEY, Ms. ROS-LEHTINEN, Mr. MENENDEZ, Mr. BERMAN, Mr. SCHIFF, Mr. GILMAN, Mr. DELAHUNT, Mr. KING, Mr. LANTOS, and Mr. HYDE):

H. Con. Res. 432. Concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia; to the Committee on International Relations.

By Mr. JENKINS (for himself, Mr. BRYANT, Mr. HILLEARY, Mr. JACKSON of Illinois, and Mr. MEEKS of New York):

H. Con. Res. 433. Concurrent resolution recognizing the United States Mint for the cost savings achieved by the 1982 conversion to the copper-plated zinc penny and expressing support for the copper-plated zinc penny on the 20th anniversary of its circulation in United States coinage; to the Committee on Financial Services.

By Mr. SHOWS:

H. Con. Res. 434. Concurrent resolution expressing the sense of the Congress regarding the economic collapse of WorldCom Inc; to the Committee on Financial Services.

By Mr. GILMAN (for himself and Mr. LANTOS):

H. Res. 467. A resolution expressing the sense of the House of Representatives that the United States should declare its support for the independence of Kosova; to the Committee on International Relations.

By Mr. GALLEGLY (for himself, Mr. BEREUTER, Mr. LANTOS, and Mr. COX):

H. Res. 468. A resolution affirming the importance of the North Atlantic Treaty Organization (NATO), supporting continued United States participation in NATO, ensuring that the enlargement of NATO proceeds in a manner consistent with United States interests, and for other purposes; to the Committee on International Relations.

By Mr. SMITH of New Jersey (for himself, Mr. CARDIN, Mr. WOLF, Mr. HASTINGS of Florida, Mr. PITTS, Ms. SLAUGHTER, and Mr. WAMP):

H. Res. 469. A resolution expressing the sense of the House of Representatives that the recent escalation within many participating states of the Organization for Security and Cooperation in Europe of anti-Semitic violence, as well as manifestations of xenophobia and discrimination directed against ethnic and religious minorities, is of grave concern and requires the highest attention of all OSCE governments; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 87: Mr. MCDERMOTT.

H.R. 111: Mr. BLUMENAUER.
H.R. 168: Mr. JENKINS and Mr. AKIN.
H.R. 257: Mrs. EMERSON and Mr. TIBERI.
H.R. 285: Mr. SCHIFF and Ms. BROWN of Florida.
H.R. 360: Ms. MILLENDER-MCDONALD, Ms. CARSON of Indiana, and Mr. HOLDEN.
H.R. 647: Mr. BACA.
H.R. 699: Mr. GRAHAM.
H.R. 854: Mr. BRADY of Texas and Mr. SHOWS.
H.R. 951: Mr. BRYANT and Mr. YOUNG of Alaska.
H.R. 984: Mr. HASTINGS of Washington, Mr. ANDREWS, and Mr. FARR of California.
H.R. 1184: Mr. SANDLIN, Mr. CASTLE, Ms. WATSON, Ms. KILPATRICK, Mr. CAPUANO, and Mr. ETHERIDGE.
H.R. 1232: Mr. DIAZ-BALART.
H.R. 1296: Mr. ENGEL, Mr. ORTIZ, Mr. HINOJOSA, and Ms. KILPATRICK.
H.R. 1581: Mr. HAYES.
H.R. 1596: Mr. BRYANT.
H.R. 1624: Mrs. CLAYTON and Mr. TERRY.
H.R. 1639: Mr. PICKERING.
H.R. 1701: Mr. JENKINS.
H.R. 1723: Mr. THUNE.
H.R. 1779: Ms. SLAUGHTER.
H.R. 1786: Mr. LUTHER.
H.R. 1811: Mr. RADANOVICH and Mr. STUMP.
H.R. 1935: Mr. CLAY, Ms. SLAUGHTER, Ms. WATSON, Mr. KIND, and Mr. DIAZ-BALART.
H.R. 1983: Mr. BRYANT.
H.R. 2063: Mr. DOGGETT.
H.R. 2117: Ms. MCCOLLUM.
H.R. 2118: Mr. FATTAH.
H.R. 2125: Mr. LUTHER, Ms. WATSON, Mrs. MEEK of Florida, Mr. REHBERG, Mr. BERRY, Mr. SKEEN, Mr. UNDERWOOD, and Mr. ISRAEL.
H.R. 2173: Mr. COMBEST and Ms. VELAZQUEZ.
H.R. 2219: Ms. WATSON, Mr. PETRI, and Mr. FARR of California.
H.R. 2244: Mr. SIMMONS.
H.R. 2357: Mr. THUNE and Mr. GUTKNECHT.
H.R. 2483: Mr. PASTOR.
H.R. 2641: Mr. LIPINSKI.
H.R. 2874: Mrs. BIGGERT, Mr. SCOTT, Ms. JACKSON-LEE of Texas, and Mr. GOODE.
H.R. 2878: Mr. CARSON of Oklahoma.
H.R. 2970: Mr. GILMAN.
H.R. 2974: Mr. KILDEE.
H.R. 3132: Mr. CLAY, Mr. BARRETT, and Ms. MCCARTHY of Missouri.
H.R. 3154: Mr. GILCHREST and Mr. WILSON of South Carolina.
H.R. 3177: Mr. BARR of Georgia.
H.R. 3193: Mr. LAHOOD.
H.R. 3273: Mr. BALDWIN and Mr. ROGERS of Michigan.
H.R. 3278: Ms. BERKLEY and Mr. LAHOOD.
H.R. 3320: Mr. MANZULLO and Mr. HOEKSTRA.
H.R. 3413: Mr. STARK, Ms. DELAURO, Ms. RIVERS, Mr. SANDERS, and Mr. ACKERMAN.
H.R. 3424: Mr. DAVIS of Florida.
H.R. 3449: Mr. SCOTT.
H.R. 3450: Mr. LIPINSKI.
H.R. 3464: Mr. FRELINGHUYSEN.
H.R. 3475: Mr. ROYCE.
H.R. 3612: Ms. WATERS and Mr. LAHOOD.
H.R. 3624: Mr. WAMP.
H.R. 3630: Mr. BILIRAKIS.
H.R. 3804: Mr. KILDEE, Mr. OWENS, and Mr. EVANS.
H.R. 3805: Mr. NORWOOD.
H.R. 3831: Mr. TOM DAVIS of Virginia, Mr. WALDEN of Oregon, and Ms. LEE.
H.R. 3842: Mr. SANDLIN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JEFFERSON, Mrs. DAVIS of California, Mr. JOHN, Ms. SOLIS, Mr. GREEN of Texas, Mr. BROWN of Ohio, Mr. WYNN, Ms. ROS-LEHTINEN, Mr. NADLER, Ms. JACKSON-LEE of Texas, Mr. HINOJOSA, Mr. BACA, and Mrs. MEEK of Florida.
H.R. 3882: Mr. SHAW.
H.R. 3884: Mr. SERRANO and Ms. LEE.
H.R. 3899: Ms. KAPTUR.
H.R. 3973: Mr. JEFF MILLER of Florida, Mr. BRADY of Pennsylvania, Mr. GUTIERREZ, and Ms. ROYBAL-ALLARD.
H.R. 3995: Mr. BASS.
H.R. 4011: Mr. FROST, Mr. BARRETT, Mr. MCDERMOTT, Mr. HINCHEY, Mr. HILLIARD, and Ms. MCKINNEY.
H.R. 4018: Mr. LAHOOD.
H.R. 4026: Mrs. JONES of Ohio.
H.R. 4030: Mr. BUYER.
H.R. 4047: Mr. PORTMAN.
H.R. 4066: Mr. FALEOMAVAEGA.
H.R. 4086: Mr. LATHAM.
H.R. 4163: Ms. MILLENDER-MCDONALD and Mr. CONYERS.
H.R. 4205: Mr. CLYBURN and Mr. FATTAH.
H.R. 4483: Ms. RIVERS.
H.R. 4555: Mr. BARR of Georgia and Mr. UNDERWOOD.
H.R. 4575: Mrs. DAVIS of California.
H.R. 4599: Mr. DAVIS of Illinois.
H.R. 4600: Mr. GOODLATTE.
H.R. 4621: Ms. CARSON of Indiana, Mr. BISHOP, Mr. SCHIFF, and Mr. GUTKNECHT.
H.R. 4668: Mr. RAMSTAD, Mr. RODRIGUEZ, and Ms. ROYBAL-ALLARD.
H.R. 4685: Mr. SULLIVAN.
H.R. 4707: Mr. BROWN of Ohio and Ms. MILLENDER-MCDONALD.
H.R. 4711: Mr. MEEKS of New York and Mr. FATTAH.
H.R. 4729: Mr. LAMPSON.
H.R. 4730: Mr. HILLIARD.
H.R. 4738: Mr. BILIRAKIS, Mr. DEAL of Georgia, Mr. BARTON of Texas, Mr. JEFF MILLER of Florida, and Mr. UPTON.
H.R. 4742: Mr. UNDERWOOD.
H.R. 4754: Mr. BAIRD.
H.R. 4760: Mr. ISRAEL.
H.R. 4764: Mr. RANGEL, Mr. STARK, Mr. JACKSON of Illinois, Mr. BRADY of Pennsylvania, Mr. WATT of North Carolina, and Mr. FATTAH.
H.R. 4777: Ms. BROWN of Florida, Mr. FATTAH, Mr. KENNEDY pf Rhode Island, Mr. NADLER, Ms. SOLIS, Ms. LOFGREN, Mr. ALLEN, Ms. MCCOLLUM, Mr. PRICE of North Carolina, Mr. SNYDER, Mr. DOGGETT, Mr. FRANK, Mrs. LOWEY, Mr. WAXMAN, Mr. BERRY, and Mr. MOORE.
H.R. 4780: Ms. SOLIS, Mr. BROWN of Ohio, Mr. BACA, Mr. STARK, Mr. FROST, Mr. POMEROY, Mr. THOMSPON of California, Mr. FILNER, Mr. LUCAS of Kentucky, Mr. RODRIGUEZ, Mr. OWENS, Ms. WOOLSEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. THOMPSON of Mississippi, Mr. MENENDEZ, Mr. STRICKLAND, Mr. LANTOS, Mr. SANDLIN, Mr. CROWLEY, Mr. LARSON of Connecticut, Mr. KLECZKA, Mr. MCDERMOTT, Mr. DINGELL, Mr. EVANS, Mr. SCOTT, Mr. OBERSTAR, Mr. MARKEY, Mr. HINCHEY, Ms. CARSON of Indiana, Mr. GEORGE MILLER of California, Mr. SHERMAN, Mr. PALLONE, and Mr. KUCINICH.
H.R. 4793: Mr. FORD and Mr. FALEOMAVAEGA.
H.R. 4831: Ms. LEE.
H.R. 4843: Mr. CARSON of Oklahoma and Mr. MOORE.
H.R. 4857: Mr. STARK, Mr. FARR of California, Mr. BERMAN, Ms. ROYBAL-ALLARD, Mr. LANTOS, Mr. SHERMAN, Mr. WAXMAN, Mr. DOOLEY of California, Ms. WATERS, Mr. THOMSPONS of California, Ms. LOFGREN, Mr. HONDA, Mr. LEWIS of California, Ms. ESHOO, Mr. BACA, Mr. OSE, Mr. CALVERT, Ms. SOLIS, Mr. CONDIT, Mr. FILNER, Mr. BECERRA, Ms. WOOLSEY, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Ms. SANCHEZ, and Ms. PELOSI.
H.R. 4872: Mr. SHIMKUS.
H.R. 4881: Mr. FROST.
H.R. 4904: Mr. FROST, Mr. DOOLEY of California, Mr. HONDA, Ms. SOLIS, Mr. FOSSELLA, Mr. BOOZMAN, Mr. LANTOS, and Mr. MCGOVERN.
H.R. 4922: Mr. KINGSTON.
H.R. 4926: Ms. SANCHEZ.
H.R. 4939: Mr. UNDERWOOD.
H.R. 4943: Mr. BLUMENAUER and Mr. JACKSON of Illinois.
H.R. 4950: Mr. ISAKSON and Mr. NORWOOD.
H.R. 4956: Mr. FORD.
H.R. 4957: Mr. BALDACCI, Mr. HINCHEY, Mrs. KELLY, Mr. SANDLIN, and Mr. SCHIFF.
H.R. 4965: Mr. VITTER, Mr. STENHOLM, Mr. ISSA, and Mr. TERRY.
H.R. 4967: Mr. ORTIZ.
H.R. 4971: Ms. BERKLEY.
H.R. 4976: Ms. NORTON and Ms. ROYBAL-ALLARD.
H.R. 4981: Mr. DEAL of Georgia and Mr. WATKINS.
H.R. 4993: Mr. BALDACCI, Mr. BONIOR, Mr. BRADY of Pennsylvania, Ms. CARSON of Indiana, Mr. COSTELLO, Mr. CUMMINGS, Mr. HOEFFEL, Mr. KILDEE, Mr. LUTHER, Mr. MEEKS of New York, Mr. RAHALL, Mr. SABO, Ms. SANCHEZ, Mr. SANDERS, Mr. SAWYER, Mr. SKELTON, Mr. THOMPSON of Mississippi, Mr. WEINER, and Mr. PHELPS.
H.R. 5017: Mr. FLAKE, Mr. HANSEN, Mr. DUNCAN, Mr. YOUNG of Alaska, Mr. RAHALL, Mr. OTTER, Mr. PETERSON of Pennsylvania, Mr. TANCREDO, Mr. SOUDER, Mr. ACEVEDO-VILA, Mr. FALEOMAVAEGA, Mr. UDALL of Colorado, Mr. SHADEGG, Mr. HEFLEY, Mr. SCHAFFER, Mr. PALLONE, Mr. UDALL of New Mexico, Mrs. CUBIN, Mr. KILDEE, Mr. SMITH of Washington, Ms. DEGETTE, and Mr. KOLBE.
H.R. 5019: Mr. FARR of California, Ms. BROWN of Florida, Mr. EDWARDS, Mr. DICKS, and Mrs. DAVIS of California.
H.R. 5024: Mr. LIPINSKI and Mr. MENENDEZ.
H.J. Res. 40: Mr. SCOTT.
H.J. Res. 91: Ms. ROS-LEHTINEN.
H. Con. Res. 173: Ms. NORTON, Ms. SLAUGHTER, and Mr. BERMAN.
H. Con. Res. 197: Mr. DAVIS of Illinois and Mr. ROSS.
H. Con. Res. 238: Mr. SHUSTER.
H. Con. Res. 287: Mr. FATTAH.
H. Con. Res. 349: Mr. LEACH and Ms. WATERS.
H. Con. Res. 350: Mr. LAHOOD.
H. Con. Res. 385: Mr. FATTAH and Ms. PRYCE of Ohio.
H. Con. Res. 401: Mr. UNDERWOOD.
H. Con. Res. 407: Mr. ISRAEL.
H. Con. Res. 413: Mr. KELLER and Mr. HOUGHTON.
H. Con. Res. 418: Mrs. CLAYTON and Mr. LAHOOD.
H. Con. Res. 425: Mr. BORSKI, Mr. ENGLISH, and Mr. CARSON of Oklahoma.
H. Res. 437: Ms. BROWN of Florida, and Ms. KAPTUR.
H. Res. 459: Mr. ROGERS of Michigan, Mr. HOEKSTRA, Mr. DAN MILLER of Florida, Mr. THORNBERRY, Mr. GOODE, Mr. WAMP, Mr. CANTOR, Mr. CASTLE, Mr. ENGLISH, Mr. MANZULLO, Mr. KOLBE, Mr. MCKEON, Mr. SIMMONS, Mr. WOLF, Mr. CAMP, Mr. BRADY of Texas, Mr. AKIN, Mr. ROGERS of Kentucky, Mr. QUINN, Mr. WHITFIELD, Mr. ROYCE, Mr. NUSSLE, Mr. ADERHOLT, Mr. KENNEDY of Minnesota, Mr. PUTNAM, Mr. BOOZMAN, Mr. LOBIONDO, Mr. FLETCHER, Mr. EVERETT, Mr. BURR of North Carolina, Mr. KNOLLENBERG, Mr. THUNE, Mr. SKEEN, Mr. FOLEY, Mr. MCNULTY, Mr. KING, Mr. RYUN of Kansas, Mr. STUMP, Mr. SWEENEY, Mr. CHAMBLISS, Mr. BARTON of Texas, Mr. BONILLA, Mr. WALDEN of Oregon, Mr. GIBBONS, Mr. CRENSHAW, Mr. HERGER, Mr. WELLER, Mr. GRUCCI, Mr. TOOMEY, Mr. LEWIS of Kentucky, Mr. POMEROY, Mr. HOBSON, Mr. HEFLEY, Mr. NETHERCUTT, Mr. HORN, Mr. KLECZKA, Mr. CONDIT, Mr. ORTIZ, Mr. REYES, Mr. JONES of North Carolina, Mr. PETRI, Mrs. MORELLA, Mr. EHLERS, Mr. GREENWOOD, Mr. FERGUSON, Mr. SUNUNU, Mr. PORTMAN, Mrs. JOHNSON of Connecticut, Mr. WELDON of Pennsylvania, Mr. FRELINGHUYSEN, Mr. DUNCAN, Mr. BASS, Mr. COBLE, Mr. JENKINS, Mr. RYAN of Wisconsin, Mr. JOHN, Mr. ROHRABACHER, Mr. CRANE, Mr. BUYER, Mr. BALLENGER, Mrs. ROUKEMA, Mr. VISCLOSKY, Mr. BROWN of South Carolina, Mr. SAM JOHNSON of Texas,

Mr. TAUZIN, Mr. RANGEL, Mrs. CAPITO, Mr. MALONEY of Connecticut, Mr. COLLINS, Mr. MORAN of Virginia, Mr. ETHERIDGE, Mrs. JO ANN DAVIS of Virginia, and Mr. MICA.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 7, by Ms. THURMAN on House Resolution 425: Tom Lantos, Cynthia A. McKinney, John L. LaFalce, and Peter Deutsch.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, THURSDAY, JUNE 27, 2002 No. 88—Part II

Senate

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

(Continued)

AMENDMENT NO. 4060

Mr. WYDEN. Mr. President, I call up amendment No. 4060 that I offer on behalf of myself and Senator SMITH of Oregon.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself and Mr. SMITH of Oregon, proposes an amendment numbered 4060.

Mr. WYDEN. 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 authorize with an offset, $4,800,000 for personnel and procurement for the Oregon Army National Guard for purposes of Search and Rescue (SAR) and Medical Evacuation (MEDEVAC) missions in adverse weather conditions)

At the end of subtitle A of title X, add the following:

SEC. 1010. AVAILABILITY OF AMOUNTS FOR OREGON ARMY NATIONAL GUARD FOR SEARCH AND RESCUE AND MEDICAL EVACUATION MISSIONS IN ADVERSE WEATHER CONDITIONS.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR ARMY PROCUREMENT.—The amount authorized to be appropriated by section 101(1) for procurement for the Army for aircraft is hereby increased by $3,000,000.

(b) AVAILABILITY.—Of the amount authorized to be appropriated by section 101(1) for procurement for the Army for aircraft, as increased by subsection (a), $3,000,000 shall be available for the upgrade of three UH–60L Blackhawk helicopters of the Oregon Army National Guard to the capabilities of UH–60Q Search and Rescue model helicopters, including Star Safire FLIR, Breeze-Eastern External Rescue Hoist, and Air Methods COTS Medical Systems upgrades, in order to improve the utility of such UH–60L Blackhawk helicopters in search and rescue and medical evacuation missions in adverse weather conditions.

(c) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.—The amount authorized to be appropriated by section 421 for military personnel is hereby increased by $1,800,000.

(d) AVAILABILITY.—Of the amount authorized to be appropriated by section 421 for military personnel, as increased by subsection (d), $1,800,000 shall be available for up to 26 additional personnel for the Oregon Army National Guard.

(e) OFFSET.—The amount authorized to be appropriated by section 301(a)(1) for operation and maintenance for the Army is hereby reduced by $4,800,000, with the amount of the reduction to be allocated to Base Operations Support (Servicewide Support).

Mr. WYDEN. Mr. President, the Pacific Northwest must have a search and rescue capability. The vast expanses of Federal land in our part of the country mean our citizens constantly face the risk of disasters and accidents, far from help. Local communities, many of them with tiny populations, do not have the resources to provide search and rescue services to the extraordinarily large surrounding wilderness areas.

The amendment I offer this afternoon on behalf of myself and Senator SMITH is a compromise. It would not have been our first choice. In an effort to work with our colleagues and appeal to our colleagues on a bipartisan basis, we offer this compromise to preserve a search and rescue capability in our region. Without this capability, the Pacific Northwest faces the certain loss of lives for disasters, fires, and accidents that are unique to our region.

This amendment authorizes a total of $4.8 million to the Oregon National Guard to upgrade three Blackhawk helicopters of the National Oregon Guard to the capabilities of the UH–60Q search and rescue helicopters similar to upgrades in the past. It would increase the authorization for military personnel by $1.8 million to ensure the Oregon Guard can respond to emergencies that require rapid medical attention.

Particularly during this season we are concerned about the host of possibilities that can strike our local communities, tragedies we have already seen won in recent difficulties in our region. We cannot afford to play Russian roulette with the safety, health, and security of our citizens.

I urge my colleagues to support the Wyden-Smith amendment that we have worked on with both the majority and the minority for many days.

I reserve my time to speak later in the debate.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. I thank my colleague for being a partner in this cause to preserve in the Pacific Northwest a search and rescue capability.

Mr. President, I rise today to introduce an amendment with Senator WYDEN to preserve a truly invaluable search and rescue capability in the Pacific Northwest.

On May 30, all eyes in Oregon and across the nation watched as brave Oregonians put themselves in harms way to rescue climbers on Mt. Hood.

The rescuers included members of the Oregon National Guard, the Portland Mountain Rescue, and the Air Force Reserve 939th Air Rescue Wing, whose members have been lauded for scores of rescues on Mt. Hood and the Oregon Coast, not to mention rescues in our neighboring state of Washington. In fact this rescue wing volunteers for these types of rescues.

Recently, nine climbers were swept into a 20-foot deep crevasse on Mt. Hood. Tragically, three of the climbers did not survive, but the skills of the rescuers ensured that others would survive.

This rescue highlighted the skills of the Rescue Wing and the importance Oregonians place on the Wing's capabilities in the region. While adverse wind conditions most likely sent one of the helicopters into an inevitable crash, the highly skilled pilot of the 939th ensured that the crew survived and that all on the ground were unharmed.

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

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Just one week prior, the 939th rescued a sick climber from Mt. Hood's Sandy Glacier. I believe this rescue highlights the Wing's capabilities: Late in the evening, the 304th Rescue Squadron used its night vision capabilities to spot the climber at an elevation of 8,750 feet.

The Pave Hawk, equipped with a hoist, lowered down Steve Rollins of Portland Mountain Rescue onto the Glacier to assess the climber. After being secured to the hoist, the climber and rescuer were raised into the helicopter and transported to safety.

Mr. President, Oregonians were devastated to hear of Air Force plans to take away the 939th Search and Rescue Wing out of the state.

Oregonians realize that the 939th's mission is to rescue our brave men in combat. In fact, we believe that the members of the 939th are among the very best trained in the nation. We know this because we know the Oregon terrain and we have witnessed firsthand their skill under most challenging conditions.

My original amendment with Senator WYDEN would have prohibited the use of funds to take this search and rescue unit away from the Pacific Northwest. Senator WYDEN and I understand the committee members have a problem with this amendment and we therefore introduced another amendment that would not interfere with the Air Force's force structure.

The managers have told Senator WYDEN and me that they would support this compromise: it authorizes a total of $4.8 million for the Oregon National Guard to be able to perform this mission.

I appreciate the assistance from Senators WARNER, LEVIN, LOTT and STEVENS, and look forward to working with them on this important issue.

Mr. President, let me close by illustrating why this is so important to me and all Oregonians.

The pioneer spirit of the Oregon Trail did not end with the settlement of the valleys of Oregon. That spirit and bravery is very much still alive in my state.

But Oregonians cannot go any further west. They can only go up—into the skies and into the mountains. It is there that the modern-day pioneers meet with both triumph and tragedy, and their lessons are learned.

The lessons of last week on Mt. Hood are harsh one that remind us of human frailty and the unbending forces of nature.

Not unlike the tragic events of the last year, what I saw in the recovery on Mt. Hood also illustrates the bravery and compassion inherent in us all, and I want that spirit to continue in Oregon.

Mr. President, this is the spirit that is the bedrock of America's Armed Forces. It is clear to met that removing the 939th from Oregon would truly be a tragedy without a lesson.

Again, on May 30, Oregonians became aware of a unit called the 939th. Prior to that, very few Oregonians would have any idea it was there, even though throughout the year, every year, the 939th has saved people trapped in natural disasters or engaged in recreational activities or sometimes just going about their business.

Truly, what they saw on May 30 was a tragedy that unfolded on national television when nine hikers climbing Mount Hood lost footing, fell into a crevice in which a number of them were killed. Many different units, from police, the Oregon National Guard, and the Air Force 939th search and rescue, came to their rescue.

They volunteered to do this. The 939th is always training to be prepared to help in military situations. They say these real-life situations are truly the best training they can have. In the course of training, they have saved countless human lives.

About a year ago, Senator WYDEN and I were informed that the Air Force was to move the 939th from Oregon. I am not one to interfere with basing decisions of the Air Force. When this happened, it was clear to every Oregonian that we needed them. So Senator WYDEN and I tried to make the case a few weeks ago that they ought to stay. Senator MCCAIN of Arizona pointed out we should not be telling the Air Force where to base their people. I think he has a good point.

Senator WYDEN and I are offering a compromise to say, fine, let us have the upgrades in the helicopters. Let us have the personnel for the Oregon National Guard. By the way, these upgrades have been made available in most of the 50 States, but not Oregon. All we are saying is we need some military component in the Pacific Northwest. The 939th is going to Arizona. I do not begrudge that to my colleagues from Arizona. I love Arizona and I love my colleagues. My Udall ancestry is all from there and I want Arizonans to have all the search and rescue capability they need. But, doggone it, why take it from Oregon and say you cannot have any comparable replacement? We are talking peanuts here when it comes to issues of life and death.

So I plead with my colleagues to allow this authorization because the whole country had the case made for them on national TV when they saw this rescue effort tragically end in a crash but with no additional loss of human life.

I wish the 939th well as they go to Arizona. This $4.8 million that it takes to upgrade these helicopters and to provide some personnel is precious little to ask in an authorization as gargantuan as this. So I appeal to the hearts and the feelings of all 50 States. Don't leave the Pacific Northwest without this capacity.

I have the privilege of sitting in Mark Hatfield's seat. Mark Hatfield, for reasons of personal conscience, was not a big advocate of military expenditure. The military money went in other places. He brought other kinds of expenditures to Oregon, I grant you. But what little we have probably puts Oregon the 50th of 50 States in receiving military appropriations. I say $4.8 million is not too much to ask.

I yield the floor and ask for the consideration and votes of colleagues on both sides of the aisle.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I have spoken to the proponents of this bill and Senators MCCAIN and KYL. I do not know how much more time the Senators from Oregon want. They originally told me they wanted about 10 minutes. I think they used about that. The Senators from Arizona indicated they would take about 15 minutes, 20 at the most—10 for Senator KYL and Senator MCCAIN, in reverse order.

I am not asking unanimous consent at this time, but I hope that would be about all we need to talk on this amendment. We will have a vote on it. We were very close at one time to final passage. We will propound some unanimous consent requests in the near future, but I am indicating to Senators, maybe there will not be too much more talk on this?

Mr. WYDEN. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. WYDEN. It is not clear to me what the Senators from Arizona intend. Certainly I understand the desire of the distinguished Senator from Nevada to move expeditiously. I think both of us will try to do that.

Mr. MCCAIN. If the Senator will yield, I say to Senator REID we are going to have to, because of a previous unanimous consent agreement, get unanimous consent to allow a second-degree amendment to be considered. That would have to be the first order for us, to be able to get that.

Mr. REID. I understand.

Mr. MCCAIN. We were seeking that because we were under the impression, clearly a false one, that the Wyden-Smith amendment would be ruled, postcloture, nongermane. The Wyden-Smith amendment is germane so we had wanted to propose a second-degree amendment. If one of the Senators from Oregon objects, then obviously we hear the objection.

Could I be recognized, Mr. President?

The PRESIDING OFFICER (Mr. CARPER). The Senator from Arizona.

Mr. MCCAIN. I ask unanimous consent a second-degree amendment on behalf of myself and Senator KYL, to the Smith amendment, be taken up at this time.

Mr. WYDEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. Mr. President, I regret Senator WYDEN chooses to take what I think is an unwise course because I have to tell Senator WYDEN now that I will fight in the conference—and I will be a conferee—to have it either amended as we want it done or to take it out completely.

I think I may have the support of my colleagues because it really is unreasonable of Senator WYDEN to object because it was clear, and everybody is clear, that we were under the impression that the amendment was nongermane. We would have filed a second-degree amendment if it had been germane.

I do not question the choice of the Senator from Oregon, but I can assure the Senator from Oregon that, No. 1, Senator KYL and I could care less whether it went to Arizona or Alaska or New Jersey. I have steadfastly opposed micromanaging any of the services.

By the way—Senator KYL is going to want to talk about this a little bit—it is up to $69,000 per person we are going to expend on this, which is quite a remarkable expense that they have.

Second, if the Oregon National Guard wants to spend money, let them take it out of their existing funds. They are perfectly capable, under their budgetary and decisionmaking process, to make a decision that they want to upgrade their aircraft with the existing funds that they have.

I do not think Senator KYL and I would demand a vote on this. I will leave it up to Senator KYL. But I assure Senator WYDEN I would not have treated him in the same fashion. But I yield the floor.

Mr. WYDEN. Will the Senator yield?

Mr. MCCAIN. I have already yielded the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I want to make clear how extensive the efforts have been on the part of Senator SMITH and myself to work with the Senator from Arizona, to work with all of our colleagues on this issue. We have tried again and again. The distinguished Senator——

Mr. MCCAIN. Will the Senator yield on that point? Has the Senator ever said a word directly to me about his amendment?

The PRESIDING OFFICER. The Senator has the floor.

Mr. WYDEN. If I might finish? The fact is, we have come to the distinguished Senator from Arizona and discussed this several times. In fact, we discussed it at some length the night the Senator was unwilling to support another bipartisan effort to reach out to the distinguished Senator. I want to make it clear, I think he knows——

Mr. MCCAIN. Will the Senator yield on that point? Will the Senator yield on that point?

Mr. WYDEN. I will be glad to yield as soon as I finish.

Mr. MCCAIN. I didn't think he would.

Mr. WYDEN. I will be happy to yield to my colleague. As he knows from our work on the Senate Commerce Committee, I worked with the Senator from Arizona again and again because I appreciate his counsel and his wisdom. Yes, we have talked about this subject. We talked about it, in fact, the night that Senator SMITH and I tried another effort to come up with a bipartisan approach that would satisfy the Senator from Arizona. Today, we do feel that we have to go forward and protect our constituents.

People in Arizona are, in fact, going to be protected. As Senator SMITH said, the 939th is going to go to Arizona. That means the two Senators from Arizona, both of whom I value as good friends and worked with on many subjects, are going to have protection for their constituents.

What we have said is, now that Arizona is going to be protected, let us try another approach, an approach that is not injurious to the Senators from Arizona, so that our citizens, in an area where there are vast amounts of Federal land and great risks for our citizens, can also be protected. So it is in that context that I seek to have this move forward today in conjunction with Senator SMITH.

Finally, as I yield to my good friend from Arizona, I want to say to him that I will continue to work with him on this issue and virtually everything else that conceivably comes before the U.S. Senate because I value his input and his counsel.

We have worked together on a whole host of questions. Now, if the Senator from Arizona desires me to yield to him, I am glad to yield to the distinguished Senator.

Mr. MCCAIN. I thank my friend from Oregon. The fact is I have never had a direct conversation with the Senator from Oregon on this issue. He knows it and I know it.

Mr. WYDEN. I have to reclaim my time to say that is factually wrong. The night we tried to have the compromise, we in fact talked about it on several occasions.

Now I am happy to yield further to the Senator from Arizona.

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

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Let me say, first of all, it gives me no great pleasure to oppose an amendment offered by two of my best friends in the Senate, one Republican and one Democrat, good colleagues with whom we have worked on a lot of things.

This is not a matter of Arizona v. Oregon. It came to my attention on the night the senior Senator from Oregon was mentioning that there was an objection to the inclusion of an item in the managers' amendment to the supplemental appropriations bill which a number of Senators—Senator GRAMM of Texas, our colleague Senator MCCAIN, and I believe some others in this part of the Chamber were going through the managers' amendment to the supplemental appropriations bill. We objected to a whole variety of amendments which attempted to either spend money or micromanage money in ways inappropriate in our view at that time.

That is when this matter first came to my attention because a Member of the other side mentioned to me there was a managers' relating to the State of Arizona. Naturally, I was curious when I saw that the Air Force's 939th unit was going to be moved from Oregon to Arizona and that the amendment of the Senator from Oregon would have stopped that. I didn't know about it at the time. We objected to that and a variety of other things because we believed it was inappropriate to be on the supplemental appropriations bill.

Now our colleagues from Oregon have determined that they should not interfere with the movement of that unit to Arizona. But they want to make up for its loss through the amendment they are presenting here—I think that is a fair way to present it—as a result of which they want to take $3 million from the Army's active-duty operations and maintenance account for upgrades of helicopters; $3 million will be spent for procurement of helicopters and $1.8 million for the 26 Oregon National Guard personnel.

If I am incorrect, correct me. I believe those numbers are correct.

The fact that I don't view this as Arizona v. Oregon is illustrated by the fact that the unit will move to Arizona, and Arizona is no worse off.

I speak on this matter having nothing in terms of a parochial interest involved but, rather, because I have taken President Bush and Secretary Rumsfeld at their word. And Senator MCCAIN and I have worked for many months—in fact, a number of years, even before President Bush came into office—trying to preserve as much in the way of funding for our military as possible to be spent in an efficient way and not be wasted.

It is one reason we both support and are cosponsors of the base closing amendment, notwithstanding the fact that it jeopardizes at least one or maybe two Air Force bases. In at least one round, we had a major base closed. We are willing to take that risk for the State of Arizona because we believe we are United States Senators and we have an interest first to protect the United States of America and to protect our constituents to the extent we can. But when it comes to national security and national defense, we don't play around with it. I don't put parochial interests ahead of the interests of America in its defense.

When the President says, I don't have enough money for defense and I have to spend every nickel we get in the wisest possible way, and when the Secretary of Defense says, I am going to husband these resources and allocate them in the following way, then I don't think it is a good idea for Congress to say, because we want something for our home State, we are going to take money out of the Army's active-duty operations and maintenance account—almost $5

million—and put it into our State because we want a search and rescue mission for people who get into trouble in our beautiful mountains.

That is not right. I have no doubt that the local communities around Mount Hood and some of these other areas may not have the tax base to pay for this themselves. But the State of Oregon is on television—I have seen the ads, and they look great because they happen in the prettiest country in the world. You see the ads: ''Come to Oregon''—I believe it is. I won't give the exact quotation of the ad. But they are very effective ads.

There is a great deal to come to Oregon for. Their beautiful mountains are part of that. If the State of Oregon, I think, with its multimillion-dollar budget—over a billion-dollar State budget—has enough money to urge people to come to the State of Oregon to enjoy its beauties, then I think they also have the ability to provide for their safety when they are there if $4.8 million is the difference; in other words, to provide some mechanism for the State to be sure people needing rescue on the side of a mountain could be rescued.

I have no idea what this unit is going to be doing in Arizona. We don't have big, beautiful snowcaps. We have a couple of them, but not the same kind of tourist attractions as the mountains in Oregon. The training, I believe, could be for the number of illegal aliens who come across the border to be rescued. About 50 or 60 have died already this year. Maybe that is what they intend to do. But I don't know. That is really, in a way, beside the point.

Neither State, nor any other State, should be seeking to take active-duty account money from the Defense Department and using it for what is a parochial need. I don't say parochial in a negative sense, but a local need, a need that could be satisfied by the people of the State.

That is reason for our opposition. It is not an Arizona v. Oregon issue, as the Senator from Oregon was himself being very clear. We don't believe we should be micromanaging the military, let alone taking money from the active-duty accounts.

I regret we are not able to offer the second-degree amendment because that would have prevented this, in effect. But it would require people from Oregon to make some choices about the $9 million we just added last night in this bill for Oregon. They will be able to move that money around and make the choices themselves as to where they want to get the funding. But it wouldn't have to come from active-duty accounts.

I hope if this amendment is adopted—I urge my colleagues not to allow it to be adopted—that there will be some discussion along the lines the Senator from Oregon was alluding to earlier. I don't think at the end of the day, as it is going right now, this is going to result in a conclusion that will be desirable from the standpoint of our colleagues from Oregon.

I appreciate what they are trying to do. Again, it gives me no pleasure to oppose them. But I think, if we have any concern at all about our active-duty troops, if we have any concern about spending money wisely, and keeping U.S. Federal military missions focused on our military and not the parochial needs of individual States to rescue people who may get into trouble, we should keep our eye on that ball, vote against this amendment, and allow the Defense Department to spend the money the way it wants to and help the State of Oregon get its funding in some other way.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I would like to tell the Senator exactly what the 939th will do in Arizona. They will train. They will look for opportunities to help in a civic way to be relevant to the people of Arizona and to rescue them because they want to be ready for combat situations. So they are going to look for opportunities to save the lives of Arizonians. God bless them in that effort.

What is the Defense budget? Probably $300 billion which we are going to vote for, and we are talking about $4.8 million.

I think what is really lost in my friends' comments is the role of the National Guard and the national defense. It is growing. It is not declining. National Guard people are looking all the time to do the same thing as the Air Force's 939th unit.

To suggest that somehow the Oregon National Guard is irrelevant to the national defense is just demonstrably false. As we speak, there are many Oregon National Guard units in Bosnia, Kosovo, and Afghanistan. They are deployed. I think the National Guard's role is growing. It is not diminishing.

To have these kinds of capacities, which many other States have, in Oregon is entirely reasonable, and it is entirely fair. I don't begrudge the Air Force moving the 939 to Arizona.

I am not sure I am very comfortable hearing that out of $300 billion, the Air Force can't allow $4.8 million for the State of Oregon when Oregonians are taxpayers too. We contribute to the national defense, and we get less in defense dollars than probably any State in America. Is that right? I say it is wrong. I say we ought to get some help here today on the floor of the Senate.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I wish to pick up on a remark of the Senator from Arizona. Again, he knows how much I enjoy working with him. We have worked together on the forest fires and a whole host of issues that are important.

I wish to address my friend's comments with respect to the contribution Oregon makes to our national security and why Senator SMITH and I see this as being important to our military and why it is a very constructive expenditure as it relates to the military.

For example, my colleague from Arizona said our State does not have high mountains. Well, the State of Oregon does. The State of Oregon—and we are very proud of them—have many high mountains. Those high mountains are part of a very good training ground for our military.

The Department of Defense has consistently said—as both of the Senators from Arizona know because they are very knowledgeable in military policy—that we ought to, as a nation, be strengthening our search and rescue capability.

I think my good friend, Senator KYL, has pointed out one of the aspects that Arizona lacks and with which Oregon can assist, and that is training as it relates to dealing with rescues from high mountains. The fact is, the people in the Northwest have been trained to rescue men and women wounded in combat. The value to our Nation of having this national training ground and this capability is a central reason why we are in support of this effort.

I am very hopeful that our colleagues will approve our bipartisan amendment.

I want to wrap up by way of saying I certainly do not consider this an Oregon against Arizona kind of battle. I am going to continue to work with both of my colleagues on this issue, but it seems to me that when we have tried to be considerate of the State of Arizona throughout this process, we would just hope that our colleagues would be willing to address these concerns that our constituents have, especially when we are showing that the contribution that Oregonians make is a contribution that advances our national security, advances our military well-being, and particularly makes a contribution that Senator KYL has said cannot be made in terms of training people in Arizona.

Mr. President, I yield at this time and reserve the right to respond to comments that might be made further.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, the Pentagon says: The Pacific Northwest will continue to have a ''very robust rescue capability.'' There are 109 rescue-capable helicopters in the Pacific Northwest and units on alert in Salem and Astoria. Assets include CH–47s on alert for high-altitude rescue, recovered mishap HH–60. Long-range, over-water missions are covered by the California Air National Guard.

In summary:

> The Pacific Northwest will continue to have a very robust search and rescue force even after the assets from the 939th wing are moved to active duty units.

I have to tell the Senator from Oregon, the 939th is moving to active duty units in Arizona. It will not be practicing on civilians. There are two major bases in Arizona: Luke Air Force Base and Davis Monthan Air Force

Base. They will be there ready to conduct search and rescue missions in case those many training flights that take place from both those bases suffer a mishap. That is what they will be doing.

They will also be patrolling our border from time to time because, as Jon said, people have died crossing the desert. But their primary mission will be to support the flight operations out of two major Air Force bases.

Mr. SMITH of Oregon. Will my colleague yield?

Mr. MCCAIN. Sure.

Mr. SMITH of Oregon. I say to my friend—and I really mean that—you made my point. They will be focused on military missions. They will volunteer for these real-life rescue missions. They will save people in the desert.

Mr. MCCAIN. They won't volunteer.

Mr. SMITH of Oregon. They do volunteer. That is what they do in Oregon.

Mr. MCCAIN. They are an active duty unit now when they move.

Mr. SMITH of Oregon. All the helicopters you just named—all those helicopters—we are just asking them to get the upgrade. Other States have received them. We have not.

Mr. MCCAIN. I thank my colleague.

We have probably wasted way too much of the Senate's time on this issue.

One, the administration opposes it. And the Army opposes it. The Army says, you are taking the money out of the U.S. Army's operating funds, which they badly need. According to them, insufficient infrastructure funding decreases readiness. They do not have enough money. And now you are going to take the money out of operations and maintenance for our active duty men and women—active duty men and women—in the military, and you are going to move it to the Guard.

All we are saying is—if you and your colleague would have allowed us—take the money out of the Guard units; shift it around to your own priorities in the National Guard. That seems eminently fair to me.

The Guard is very well funded. You are talking about the overall funding. The Guard is very well funded as well. I am not going to take too much more time on this.

The administration opposes it. The Army opposes it. We oppose it. It is something, frankly, that is unnecessary. To have this kind of transfer of funds, when our active duty military is already very short of funds, I think is a mistake.

Again, I think we could have solved this very easily with a second-degree amendment, if it had been allowed, that the money would have been taken out of existing Guard funds. Then you could upgrade it or do whatever you wanted to with Guard funds instead of taking it away from the men and women in the military.

I will tell the Senator from Oregon, there are too many people living in barracks that were built during the Korean war. There are too many people who are on active duty who have insufficient housing, lifestyles, quarters, and other basic amenities of life. And we are an all-volunteer force.

You are taking the money from the active duty personnel in order to satisfy what your perceived needs are of the Guard in the State of Oregon. I do not think that is fair to the active duty men and women in the military.

I yield the floor. And I don't think we have any further debate.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, just to be very brief, with regard to the amount of time the Guard has spent overseas, they might as well be active duty people. These are people who have served our country with extraordinary valor all over the world. They could just as well be called active duty military.

I hope our colleagues support this bipartisan amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4060.

The amendment (No. 4060) was agreed to.

Mr. LEVIN. Mr. President, we have one amendment which has been cleared.

Mr. WARNER. Mr. President, do we have that amendment reconsidered and tabled?

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4077, AS MODIFIED

Mr. LEVIN. Mr. President, I call up amendment No. 4077, on behalf of Senators MILLER and CLELAND, and send a modification of the amendment to the desk.

The PRESIDING OFFICER. Is there objection to the amendment being modified?

Mr. WARNER. There is no objection.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. MILLER, for himself and Mr. CLELAND, proposes an amendment numbered 4077, as modified.

Mr. LEVIN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment, as modified, is as follows:

(Purpose: To authorize $1,900,000 for procurement for the Marine Corps for upgrading live fire range target movers and to bring live fire range radio controls into compliance with Federal Communications Commission narrow band requirements)

In subtitle C of title I, strike ''(reserved)'' and insert the following:

SEC. 121. MARINE CORPS LIVE FIRE RANGE IMPROVEMENTS.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps is hereby increased by $1,900,000, with the amount of the increase to be allocated to Training Devices.

(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps, as increased by subsection (a), $1,900,000 shall be available as follows:

(A) For upgrading live fire range target movers.

(B) To bring live fire range radio controls into compliance with Federal Communications Commission narrow band requirements.

(2) Amounts available under paragraph (1) for the purposes set forth in that paragraph are in addition to any other amounts available in this Act for such purposes.

(c) OFFSETTING REDUCTION.—The amount authorized to be appropriated by section 103(1) for the C–17 interim contractor support is reduced by $1,900,000.

Mr. LEVIN. Mr. President, this amendment, as modified, would add, with an offset, $1.9 million for buying upgrades for Marine Corps training devices to support live-fire training and live-fire range control systems.

I believe the amendment has been cleared.

Mr. WARNER. Mr. President, the chairman is correct.

The PRESIDING OFFICER. Without objection, the amendment, as modified, is agreed to.

The amendment (No. 4077), as modified, was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I renew my previous unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Our Republican leader has reviewed this and approves it.

Mr. REID. It is two pages long. I did not want to read it again. It is spread on the RECORD. I send a copy of it to the desk in case there is any misunderstanding.

I ask approval of the unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. REID. Mr. President, we are going to have the vote on final passage at 3:15. As most know, Secretary Rumsfeld is going to be here at 2:45 for a short period of time. But that will give everyone time to visit with him. Then we would start a vote at 3:15.

NUNN-LUGAR EXPANSION ACT

Mr. LUGAR. Mr. President, I rise today to engage in a colloquy with the chairman of the Armed Services Committee, Senator LEVIN, and the chairman of the Foreign Relations Committee, Senator BIDEN, to discuss the legislative intent of the Nunn-Lugar Expansion Act.

I appreciate Chairman LEVIN's strong support for my bill. Under his leadership the Armed Services Committee adopted the bill and included it as section 1203 of the fiscal year 2003 Authorization bill. Furthermore, Chairman

BIDEN is a cosponsor of the bill and his support is critical to the successful implementation of the nonproliferation authorities provided to the Secretary of Defense.

Section 1203 seeks to capitalize on the unique nonproliferation asset the Nunn-Lugar Program has created at the Department of Defense. An impressive cadre of talented scientists, technicians, negotiators, and managers has been assembled by the Defense Department to implement non-proliferation programs and to respond to proliferation emergencies. Equally impressive credentials are held by other agencies such as the Department of Energy, State Department, and Nuclear Regulatory Commission. Section 1203 acknowledges the unique skills held by various agencies and seeks to broaden the President's menu of response options. Our legislation rejects a ''one size fits all'' response and provides another department with the authorization to respond to a proliferation threat.

As the United States and our allies have sought to address the threats posed by terrorism and weapons of mass destruction in the aftermath of September 11, we have come to the realization that, in many cases, we lack an appropriate assortment of tools to address these threats. Beyond Russia and other states of the former Soviet Union, Nunn-Lugar-style cooperative threat reduction programs aimed at weapons dismantlement and counter-proliferation do not exist. The ability to apply the Nunn-Lugar model to states outside the former Soviet Union would provide our President with another tool to confront the threats associated with weapons of mass destruction.

If the President determines that we must move more quickly than traditional consultation procedures allow, the legislation provides that authority to launch emergency operations. We must not allow a proliferation or WMD threat to ''go critical'' because we lacked the foresight to empower the President to respond with a variety of options.

In the former Soviet Union the value of being able to respond to proliferation emergencies has been clearly demonstrated. Under Nunn-Lugar the U.S. has undertaken time-sensitive missions like Project Sapphire in Kazabstan and Operation Auburn Endeavor in Georgia that have kept highly vulnerable weapons and materials of mass destruction from being proliferated. But these endeavors have also illustrated the inherent problems of the inter-agency process in addressing time sensitive threats. We have seen on more than one occasion that teams of lawyers haggling over agency prerogatives and turf have delayed responses to critical threats. We must not allow this to continue. We cannot permit the intersection of terrorism and weapons of mass destruction.

This type of scenario does not mean Congress will abandon its oversight responsibilities or the Administration should be continue and coordinate its actions to ensure the most seamless and effective response. Section 1203 requires extensive reporting requirements if action is taken under emergency circumstances. Furthermore, this legislation is not a blank check. We expect this legislation to be implemented with close consultation between relevant agencies. But at the same time, the legislative authority provided therein enables the President to avoid inter-agency logjams that would retard urgent American action.

Mr. BIDEN. I am delighted to join with my dear friend and colleague, Senator LUGAR, in supporting section 1203 of this bill. The Nunn-Lugar program and the several nonproliferation programs that have developed over the last decade were born in the need to secure excess weapons and dangerous materials and technology in the former Soviet Union. They have not yet fully achieved that objective, but they have accomplished far more than anybody other than Senators NUNN and LUGAR foresaw a decade ago, The record of former Soviet weapons and materials secured and destroyed, and of former weapons scientists given useful and honorable work, is a testament to the importance of positive incentives in foreign and strategic policy.

Proliferation is a worldwide threat, and there are sensitive materials and technology in many countries. Section 1203 is rightly designed to permit Nunn-Lugar activities the former Soviet Union, when there are opportunities to ensure that sensitive materials will never be acquired by rogue status of terrorists.

I am pleased that Senator LUGAR spoke of the need to give the President the authority to act in such cases. The current language of section 1203 could be construed to permit the Secretary of Defense to pursue such opportunities on his own, absent specific direction from the President. In my view, that might invite the Secretary of Defense to initiate sensitive foreign activities without the knowledge or support of the Secretary of State. I understand that this was not the intent of the managers, Senator LUGAR, or cosponsors of this bill. Because this was clearly not the intent, I understand the managers will work to clarify the language of section 1203 in conference so as to make clear that the authority to order these operations resides in the President, not in the Secretary of Defense. That will be a very useful contribution, and I commend them for it. I understand also that the conferees will make clear that the authority to draw funds from other programs will extend only to other Department of Defense programs, and I appreciate that clarification.

I would hope that the managers of the bill would also see fit to broaden the list of receipts of the reports required by section 1203. The Foreign Relations Committees of Congress have a legitimate interest in knowing when sensitive non-proliferation programs are to be instituted overseas. I understand that this concern will be kept in mind in conference, and I thank the managers for that courtesy.

Mr. LEVIN. I want to thank the sponsors of the legislation that was included as section 1203 in the fiscal year 2003 National Defense Authorization bill for bringing this matter to my attention. Of course the responsibility to initiate and expand the type of activities provided for in section 1203 of the bill rests ultimately with the President. As you are the original sponsors of this provision, I will honor your request and will urge the conferees to make the needed changes during the conference process.

THE PRICE-ANDERSON ACT

Mr. SMITH of New Hampshire. Mr. President, in March of this year, when we passed the energy bill, Senator VOINOVICH offered an amendment to reauthorize the Price-Anderson Act that passed overwhelmingly 78–21. The Price-Anderson Act expires on August 1, 2002. This act sets up a system of insurance and indemnification to protect the public against losses stemming from nuclear accidents. It has served the nation well since the 1950s and has been reauthorized three times. Price-Anderson has been amended over the years so that the utility industry that operates nuclear reactors is charged premiums for this insurance. The private Department of Energy (DOE) contractors that are involved in strategic weapons production, clean up of national security sites, nuclear research and technology, as well as other related national priorities are indemnified by the government. In keeping with the directions in the current law both the DOE and the Nuclear Regulatory Commission (NRC) have issued reports urging renewal. The provisions of the Voinovich amendment to the energy bill to reauthorize this legislation were crafted in consonance with these reports. In the Defense authorization bill we are now considering, there is a provision to only renew the authority for the private DOE contractors. There is strong justification for doing so, since a lapse in the authority will affect important cleanup and defense programs as I mentioned before. Private industry must be indemnified properly before undertaking these important national projects. Reauthorization is vital to national defense and must be considered on ''must do'' legislation such as the defense bill. However, the NRC provision of Price-Anderson, one that falls under the jurisdiction of the Environment & Public Works Committee, is not included in this bill. Historically, in the reauthorization of Price-Anderson, we have never separated the DOE contractor provision from the NRC licensee provision. The three previous renewals of Price-Anderson have extended both the DOE and NRC portions of the Act at

the same time for identical time periods. As the ranking member of the Environment & Public Works Committee and as a senior member of the Armed Services Committee, it was my hope that we could ensure that these two provisions of Price-Anderson be moved through the legislative process as one package, and not be separated. Due to the need of keeping non-military provisions off of the Defense Authorization bill while the bill is under consideration by the Senate, adding the NRC provision of Price-Anderson will not be possible at this time. However, it is certainly the hope of this Senator that the DOE and the NRC provisions of Price-Anderson remain on as close of a parallel legislative tracks as is possible, however that can be accomplished.

Mr. INHOFE. I am in complete agreement with my colleague. Should we let this authority lapse, it will jeopardize national security programs. Therefore, we must act in this bill with the provisions that cover the private DOE contracts. However, we must try to get the entire act renewed as recommended by the administration and the agencies that have help to develop, modify and oversee its activities over the past nearly half century that have served us so well. I strongly believe that it vital to pass full and comprehensive reauthorization of the Price-Anderson Act. The law has worked well and has been considered a model in other countries. It insures against terrorism against the plants and has been studied in an attempt to help fashion the terrorism insurance recently passed in this body. I would urge that we do what we can in this body to get Price-Anderson renewed in the most expeditious fashion. I want to thank my colleagues on both the Armed Services Committee and the Environment and Public Works Committee, of which I am the ranking member of the Nuclear Subcommittee, and I look forward to working with them so that we may pass comprehensive Price-Anderson reauthorization during the 107th Congress.

Mr. VOINOVICH. I Thank my colleagues for their commitment to this issue that is of the utmost national importance. I add my support to the idea that we should keep the pieces of this legislation together. I certainly agree that we should make certain that our private DOE contractors do not experience a protracted lapse in authority that will surely delay the implementation of important programs. But I want to point out that energy security and national security are very much related, and both are integral parts of our overall economic security. Nuclear power, science and technology are vital to this country. Nuclear generation provides 20 percent of our electricity and is the largest contributor to avoiding emissions. If we are to meet the future demands for electricity we will have to build more nuclear plants to augment the present fleet. All over the world, nations are considering building new nuclear facilities. The current administration wants to move forward with new plants that use new, more efficient nuclear technologies that reduce the volume of spent fuel and have even more safety features than the current plants which have unparalleled safety records. The original law was put together to support both aspects of nuclear operations. They have worked very well together. I would agree with my fellow Senators who have just spoken on this matter. I was proud to have introduced the original Price-Anderson reauthorization bill and was very pleased when the Senate voted overwhelming to include my Price-Anderson amendment on the energy bill. It is important that we reauthorize the entirety of this statute and I look forward to continuing to work with my fellow Senators to ensure that the Price-Anderson Act is reauthorized this Congress.

Mr. WARNER. I agree with my colleagues that reauthorization of Price-Anderson, both for DOE contractors and for NRC licensees is a priority for the Nation. I am hopeful that these two provisions to extend Price-Anderson will soon be enacted into law.

Mr. ALLARD. Mr. President, we just passed an amendment which will require the Missile Defense Agency to provide yet another report. While we accepted this amendment, I believe it is redundant and wasteful.

The criticism of MDA for classifying information on targets and countermeasures for future missile defense tests has been surprising, at best. The Missile Defense Agency (MDA) informed us some time ago that such information would be classified as testing becomes more sophisticated.

From the last three successful long-range intercept test successes, MDA has begun a progressive and more rigorous testing program to evaluate emerging and evolving technologies. These technologies include countermeasure to missile defenses that our adversaries might use and the means MDA devises to overcome those countermeasures. MDA has laid in a structure and process to identify likely or possible countermeasures and to assess their potential effectiveness; and to identify and assess possible counter-countermeasures.

I can't resist noting that the majority has cut about half the funding for this function in its missile defense proposals in this bill. I think if they were that concerned about countermeasures, perhaps they wouldn't have made this cut.

After MDA has identified these countermeasures, it designs and builds them. That's the only way MDA can test against them. Detailed knowledge of ballistic missile defense countermeasures techniques—techniques that we may be developing ourselves to test the strengths and weakness of our missile defense systems—could lead our adversaries to develop capabilities that can defeat our systems.

I don't believe anyone wants to reveal information that might compromise our security. We should not share information on targets and countermeasures with the likes of Iran, Iraq, and North Korea.

I fully concur with those who believe that Congress should have access to all relevant information related to missile dense tests. MDA has assured me that it will provide us with this information. All members, and staff with appropriate clearances, will have access to this information. Indeed, staff received classified information related to targets and countermeasures prior to the last long-range missile defense test.

To those who suggest that this move is designed to disguise or hide missile defense test failures, I would note that test successes or failures really can't be hidden.

Congress will have access to all the information, classified or otherwise. Not all information will be classified. it will be clear to the public whether the interceptor hit the target or not. Classification may actually make it harder for MDA to demonstrate success to the public because it can't make details of the test public. Details of almost all military tests are classified. Have we ever explained to our adversaries how to defeat stealth technologies? Why would we do so with missile defense technology?

The decision to classify this information meets the criteria of Executive order 12958 that guides all DOD agencies in decisions on these matters. This executive order notes that information can be classified if it relates to ''military plans, weapons systems, or operations'' and ''vulnerabilities or capabilities of systems. . . . relating to the national security''; or if release of the information could reasonably be expected to ''reveal information that would assist in the development or use of weapons of mass destruction.''

I believe MDA countermeasures and targets information qualifies in all three categories.

Is classification premature? I don't think so. We hope to have early missile defense capabilities in the field in the not too distant future. These capabilities will be based on test assets. Publicly revealing the weaknesses of our test systems to our adversaries simply doesn't make any sense.

At this time, I would also like to make a few more points regarding the original cuts made by the Majority to the missile defense programs.

While I am very happy that the $814 million cut was restored by the Warner/Allard amendment, I am concerned that there is confusion that the second degree amendment in some way reflects that this Senate believes that the President does not have the flexibility to spend the money as he fits between missile defense and counter-terrorism. As a matter of fact, according to the Office of Management and Budget, as well as the chairman, the second

degree amendment does not preclude the President from deciding where to spend the money—missile defense or counter-terrorism. And that is certainly my understanding, as well as the ranking member of the Armed Service Committee.

One of the major criticisms stated by the majority is the expenditure rates for Ballistic Missile Defense projects, particularly the rate of expenditure in the BMD System program element.

The Missile Defense Agency is attempting to develop a single integrated ballistic missile defense system capable of attacking missiles of varying ranges in all phases of flight and defeating missiles of all ranges.

Thus MDA has shifted from an element-centric approach with a focus on THAAD, PAC-3, NTW, NMD etc., to a system-centric approach that knits each of the elements into an integrated whole. The goal is to develop a seamless took-kit of sensors, shooters, platforms battle management, and command and control assets that function as a single integrated BMD system.

Critical to this refocusing are integration efforts to tie disparate BMD projects into a coordinated whole. The BMD System program element is key to success in the endeavor.

But the chairman seems to argue that some funding will be left over at the end of fiscal year 2002 and thus not all the funding requested for fiscal year 2003 will be needed.

I strongly disagree and several points need to be made.

The 2002 budget was approved late. The FY 2002 defense authorization act wasn't signed until January of this year, at the end of the first quarter of the fiscal year. MDA projects—and all other DOD projects—were late in getting FY 2002 funds.

The expenditures that the chairman cited are already out of date. The figures he used were the expenditure figures from March 31, less than three months after MDA started receiving 2002 funds. The figure updated for the end of April is already about $100 million.

The end of year expenditure projection for this program element is about half the funds appropriated. More than 90 percent will be obligated. These figures are well within expected ranges.

I have the Missile Defense Agency projections for all their major project activities. All appear to be within expected ranges.

It is also very important to remember that the funding request in the BMD System program element is all R&D money. R&D funding is available for obligation for two years and available for expenditure until disbursed or rescinded. Congress provides extended availability for R&D funding specifically to help assure funding stability and planning and contractual flexibility.

If we accept the argument that we can cut funding in this program element because MDA will have Fiscal Year 02 funds left over, we have to accept the argument that the whole rationale for providing extended availability for R&D funding is flawed. We may as well go ahead and cut all R&D programs that have any funding left over from the previous year.

I don't think any one believes we should do that.

Citing an outdated expenditure figure for this program element so early in the fiscal year is simply misleading and I believe misguided.

Another concern I had with the Majority's cuts was the $147 million reduction in program operations. This reduction may sound mundane but is critical to the success of the programs.

The majority has justified the cuts on grounds that the funding is redundant and excessive. The committee report notes that program operations are adequately funded in each Missile Defense Agency project and the program operations funds justified in separate lines in each program element simply aren't needed. So the Armed Services Committee bill cuts each and every one of these funding lines.

But this justification is simply wrong. It is simply mistaken to state that the funding for program operation is redundant to funding elsewhere in the MDA budget. Not only is it mistaken, this funding reduction is extraordinarily damaging to the Missile Defense Agency.

What are ''program operations?'' Program operations are people. They provide the basic support for any program. They provide information technology support—the computer support people. They provide communications support. They provide security. They provide contract support. They support basic infrastructure and facilities.

It is true that this work is done at the project level. The THAAD project funds program operations unique to the THAAD project. Each MDA projects fund program operations unique to that project.

But the simple fact is that the program operations funds in each project are not used for same purposes as the funds that have been cut in Armed Services Committee bill. The funds cut by the Committee bill are not for activities unique to any particular project. They are for common program support.

The funds identified in the MDA budget for program operations will be used to support government and contractors for common program support at Missile Defense Agency Headquarters and for the service executive agents for missile defense programs. The Missile Defense Agency is required by law—Section 251 (d) of the Fiscal Year 1996 National Defense Authorization Act to request these funds in separate program elements.

This bill cuts almost all of this funding—$147 million of $185 million requested, or nearly 80 percent.

What does this cut do?

This reduction cuts nearly 1,000 people who provide basic support for Missile Defense Agency projects and activities. Army Space and Missile Defense Command will lose almost 400 people. The Army Program Executive Office for Air and Missile Defense will lose another 60. Missile Defense Agency Headquarters will lose around 400. The Navy and Air Force will lose about 75.

Heres how MDA describes the impact:

> The majority of Army SMDC and Army PEO-AMD staffs would be eliminated.
>
> Air Force and Navy organizations responsible for centralized management and/or sharing of common program management costs would be eliminated.
>
> All contract support at MDA for program operations would be eliminated; computer center and thus computers shut down; no security (technical or physical), no staffing for supply/mail room, cleaning, and facility maintenance; no contractor support for common acquisition management functions performed by MDA, e.g. contracting, financial management, cost estimating, human resources.

That is an incredible hit on any organization.

Could MDA recover by redirecting funds to cover these functions? If these cuts survive the process, MDA would have to move money into activities in direct contravention of Congressional intent which is usually a pretty bad idea.

But even if MDA were to try use project funds to perform these program-wide activities, the agency would be in the position of trying to use new people to do many of these jobs. The Missile Defense Agency simply could not do this in anything approaching a timely manner. Consider contracting support. The whole thrust of the missile defense program has changed, moving toward a single integrated missile defense system and away from autonomous ''stove-piped'' systems. This will inevitably mean contract changes as the architecture evolves. Yet MDA's institutional memory would have been surgically excised by this reduction at precisely the time it is needed most. So MDA would take a double hit—a cut to project funds to pay for program operations, and inefficient and ineffective program operations because all the people who did that job will have been fired.

The 80 percent reduction to program operation is just one example of how damaging the missile defense reductions in this bill. It is inconsistent with good management, current law, and common sense. I cannot say if the majority simply erred in this reduction, or if the intent was to cripple the organization.

Another program that was it hard by the majority's missile defense cuts deals with countermeasures—which for me makes these cuts even more surprising.

Many critics on the majority side have argued that simply countermeasures can render missile defenses ineffective. They have criticized missile defense technology and testing as too simple, and not sensitive enough to the measures our enemies might take

to defeat our defenses. The former Director of Operational Test and Evaluation Phil Coyle used to make this argument in his official capacity and had many recommendations about how to improve what he saw as deficiencies. The chairman of the Senate Armed Services Committee just recently repeated the view that simply countermeasures may be able to defeat missile defenses.

The Missile Defense Agency agreed that countermeasures represent a significant challenge, and has structured a significant part of its program to meet this challenge. Here's what they have done:

MDA moved from an architecture that relied very heavily on intercepting enemy missiles and warheads in their terminal phase, the final phase of flight as these weapons approach their target, to an architecture that seeks to intercept missiles and warheads in all phases flight-boost phase right after launch, and midcourse as the missiles and warheads fly ballistically toward their target as well as terminal phase. Countermeasures to defenses in any one phase of flight are greatly complicated by attacking missiles in all phases of flight.

MDA initiated technology efforts in the midcourse defense segment to develop counter-countermeasures and advanced kill vehicles to defeat countermeasures that our adversaries may develop or deploy.

MDA initiated a ''Red, White, and Blue'' team and a process to objectively assess the types of countermeasures that might be developed and deployed and the countermeasures that could be developed to counter them. The Red team assesses the likelihood and technical feasibility and effectiveness of various countermeasures; the Blue team assesses ways to defeat the countermeasures and does basic technical work to produce the counter-countermeasures; and the White team is the referee to make sure that proposals and assessments from the Red and Blue teams are fair.

Given the concerns expressed by our majority about the ability of adversaries to produce countermeasures that defeat our defenses, you would thank that these efforts would among those receiving the strongest support in this bill. If you thought that, you would be wrong. This bill decimates each of these approaches.

The bill makes extraordinarily deep reductions in boost phase intercept projects. The Airborne Laser program—cut by about a quarter—there is almost no funding for anything beyond the first prototype aircraft. Funding for space-based kinetic boost phase interceptors is eliminated. Funding for sea-based boost phase interceptors is eliminated. Space-based laser? That was killed last year. And the bill makes a $52 million reduction to Navy mid-course missile defense, and concept development and risk reduction effort to produce Navy missile defenses against medium, intermediate, and long-range missiles.

The bill cuts all the funding—100 percent of the funding—for the next generation kill vehicle and midcourse counter-countermeasures. This leaves the midcourse segment with no follow-on technology to defeat any advanced countermeasures our adversaries might develop or obtain and then deploy.

The bill cuts almost half of the funding for the Red, White and Blue team. This reduction is part of the 2/3 reduction to Ballistic Missile Defense System program element. A key project in that program element is system engineering and analysis. That's where the Red, White and Blue team is funded. This bill decimates this key effort.

These reductions severely damage the effort to defeat BMD countermeasures—an effort that everyone-Republicans, Democrats, MDA, and missile defense critics—believes is critical. The rationale for these reductions, to be charitable, is unclear.

Let me end my statement by summarizing some of the majority's arguments which we have heard during the course of this debate.

First, funding is not adequately justified or unclear what product will be provided.

Not true.

The committee has received hundreds of pages of justification which describes in tremendous detail activities and products in each program element. I admit that not all of the detail was available at the beginning of the budget cycle because the National Team—which plans the activities—was just standing up. It is all available now.

Many of these important activities and products included in System Engineering & Integration are: concept development and system architecture; trade studies and analysis; functional allocation; BMD element (e.g. PAC–3, ABL, THAAD) specifications; verification of text objectives; engineering process controls; configuration management; interface specification; architecture definition; threat databases; modeling and simulation; test infrastructure and target requirement definition; schedule baseline; specialty engineering; and data management.

For Battle Management/Command and Control these activities include: definition of intelligence and sensor inputs; specifications; definition of interfaces; mission planning across BMD elements BM/C2 test planning, assessments BM/C2 system performance BM/C20T&E plans; BM/D2 transition plans; order of battle definition communications architecture message definition and formats network management information assurance wargaming support; and BM/C2 verification and test.

Here is an example of some of these activities:

System and element capability specification: $17.8 million.

Description: The system capability specifications provide design requirements for system integrators and element contractors to use in development and testing. It enables contractors to understand the context in which they are designing elements and to be more innovative in ensuring that their element meets its requirements and milestones in the BMD system. The system capability specification document describes the BMD system in terms of functions and performance based capabilities, shows the allocation of those capabilities the elements in the BMD system, and identifies methods to verify those capabilities at the system level. Element and component capability specifications documents describe the functions and capabilities of BMD system elements and components as they are allocated in the systems capabilities specifications. For new elements these documents may provide a very complete description of functions and capabilities and allocations to major subsystems. For existing elements, the documents may be higher level and might serve as the basis for engineering change proposals to bring the element into compliance with BMD system allocations and specifications. These documents are reviewed quarterly and updated annually.

The committee got over 100 pages of similar material describing these activities in a minute detail.

The second argument is that the funding is redundant.

Again, not true.

There is a semantic problem in considering ''system engineering.'' System engineering takes place at the system level and the at the element level. The system level effort integrates all the disparate elements into a seamless whole. At the element level—or perhaps we would better call this ''element engineering''—provides for integration between the parts of an element. For example, the THAAD program spends about 10 percent of its funding on ''system engineering'' to assure that the THAAD components-radar, missile, launcher, BMC2—work together seamlessly.

This is not the same work that is being done at the BMD system level. The system engineering and integration across elements of the BMD system is being done at a much more detailed level and more systemtically than in the past. This is new or expanded work. On reason this work hasn't been done so much is the past is because of the former ABM Treaty constraints.

A third argument is that the funding is premature.

Once again, not true.

Much of this work has not been done before. It is needed to implement the new concept of missile defense as a single integrated system. If this work isn't started and can't continue now—the effectiveness of all missile defense systems will be degraded; deployment of effective missile defense will be delayed; costs will increase, since each element will have to ''carry more of the load'' and element-centric work

will have to be redone later to make it compatible with a single integrated system. The start or expansion of this work coincides with establishment and stand-up of the National Team.

As I mentioned earlier but I believe is important to reiterate, it has also been argued that some funding will be left over at the end of fiscal year 2002 and thus not all the funding requested for fiscal year 2003 will be needed. Although the 2002 budget was approved late, the obligation and expenditure rate in System Engineerring and Integration is well within expected ranges.

The funding request is all R&D money. R&D funding is available for obligation for two years and available for expenditure until disbursed or rescinded. Congress provides extended availability for R&D funding to help asure funding stabililty and planning and contractual flexibility.

If we accept the argument that we can cut funding in this program element because MDA will FY 02 funds left over, we have to accept the argument that the whole rationale for providing extended availability for R&D funding is flawed. We may as well go ahead and cut all R&D programs that have any funding left over from the previous year.

Fourth, that the funding is excessive.

Once again, not true.

MDA's BMD system level engineering and integration funding request, at 2 percent of the MDA budget of the budget, is modest.

Standard text (Essentials of Project and Systems Engineering Management) estimates requested resources for systems engineering to be 4–8 percent of total project cost. Costs tend to be higher for complicated projects.

MDA's system and element level engineering and integration funding is low compared to other programs.

What other programs spend on system engineering:

V–22—7.2 percent.

B-1b—14.3 percent.

V–22 (Marine)—11.5 percent.

F–22—5.5 percent.

E–3A AWACS—13 percent.

Safeguard—16 percent.

Patriot—19 percent.

E–4 Airborne Command post—12 percent.

Pershing II—21 percent.

JTIDS—12 percent.

Here's what Ballistic Missile Defense spends on system engineering:

Ground-based Midcourse—6.9 percent.

THAAD (03)—10 percent.

BMDS SE&I—2 percent.

These figures are not at all out of line with other complex DOD programs. The BMDS systems engineering funding is low by comarison-particularly given that we haven't done this mission before. This mission is almost uniquely complex.

In conclusion—the BMDS funding reductions aim at the heart of what MDA is trying to do and how MDA is trying to do it. I believe the funding reductions are completely unjustified and I am glad we made some progress in getting these very important missile defense programs back on track.

Mr. JEFFORDS. Mr. President, I would like to thank the managers of the bill, Senators LEVIN and WARNER, for not including proposals that the Administration has put forward that would undermine many of our environmental laws, in either the legislation that was reported by the Armed Services Committee and the final legislation that we are voting on today. I would also like to make clear my continuing concern with these proposals and my opposition to any efforts to include them in conference on the DoD authorization bill.

Title XII of the administration's National Defense Authorization Act for Fiscal Year 2003 contains several provisions that not only fall within the jurisdiction of the Committee on Environment and Public Works, which I chair, but proposes changes to our environmental laws that are unnecessary, broad, and—judging from the volume of mail I already have received—very controversial. The administration contends that these changes are needed for military readiness and training. However, it has not been demonstrated that is the case.

One provision could permanently extend the timeline for DoD's conformity analysis, required under the Clean Air Act, by 3 years for all activities broadly referred to as military readiness activities, without regard to whether there is a national security emergency or other need for such an extension.

Another provision attempts to permanently exempt the DoD from broad aspects of Resource Conservation and Recovery Act, RCRA, regulation and cleanup. The proposal significantly changes the definition of ''solid waste,'' the crux of the RCRA statute. The proposal would exempt munitions that were deposited, incident to their normal and expected use on an operational range. The proposal also may exempt munitions wastes that remain after the range becomes ''non-operational'' a term not found in environmental law—prohibiting EPA and preempting the states from regulating the cleanup of the vast majority of unexploded ordnance, explosives and related materials that contaminate closed, transferring and transferred training ranges.

By exempting munitions-related materials from RCRA, the proposal could prohibit EPA and states from acting to address munitions-related environmental contamination that is not on a range at all, but has migrated from the range entirely off-site. The exemption also extends to any facility—not just training ranges—with munitions-type waste, which may include plants that manufacture explosives and other manufacturing facilities run by defense contractors. It is possible that the exemption also would extend to waste streams from the manufacture of explosives since the exemption covers ''constituents.''

The proposal also provides exemptions from the Comprehensive Environmental Response Compensation and Liability Act or Superfund. ''Explosives unexploded ordnance, munitions, munition fragments or constituents thereof'' would be permanently exempted from the definition of ''release'' under Superfund. In addition, because the definition of ''solid waste'' under RCRA triggers coverage as a ''hazardous waste'' under Superfund, the broad RCRA exemption would exempt munitions waste from regulation, ie., cleanup, under Superfund. This could similarly tie the hands of the states to compel cleanup.

By affecting the definition of ''hazardous substance,'' the proposal may preclude states and natural resources trustees from pursuing restoration of areas contaminated by munitions waste—this affects the ''natural resource damages'' section of the Superfund law. The proposal also may eliminate authority under section 104 of the Superfund law to clean up a release or respond to substantial threat of a release of hazardous substances on training ranges—and, as discussed above, possibly off-site and at manufacturing facilities as well.

The proposal would exempt the Department of Defense from the requirement of the Endangered Species Act of designating critical habitat on all ''lands, or other geographical areas, owned or controlled by the Department, or designated for its use'' if an Integrated Natural Resources Management Plan—INRMP—has been developed pursuant to the Sikes Act. The Sikes Act requires military installations to prepare plans that integrate the protection of natural resources on military lands with the use of military lands for military training. If the Fish and Wildlife Service determines that the plan ''addresses special management consideration or protection,'' they can decide not to designate critical habitat. Although the Service in the past has excluded some bases from critical habitat designation based on an INRMP, in numerous other decisions, the Service has expressly found that an INRMP would not provide adequate protection in lieu of critical habitat designation.

Under the Endangered Species Act, the Service is required to consider ''the impact on national security'' when designating critical habitat. This proposal would preclude the Service from designating critical habitat if an INRMP has been completed.

The proposal would authorize military readiness activities under the Migratory Bird Treaty Act—MBTA—without further action by the Secretary of the Interior. It would exempt the DOD from the requirement, applicable to everyone else and founded on treaties between the United States and Canada, Mexico, Russia, and Japan, that they obtain a permit from the Fish and Wildlife Service before killing migratory birds or destroying their

eggs. Such action could be carried out without any assessment of biological impact, effort to mitigate or seek alternatives, oversight or accountability.

In March of 2002, a court ruled that the MBTA applied to training activities at the Farallon de Medinilla range in the Western Pacific and enjoined the Navy from continuing the bombing activities there. The Navy has applied for a special purpose permit under the MBTA allowing for incidental take and are completing the biological justification. While the MBTA does not have an exemption for national security, it does provide for permits to be issued if the urgency of the training is determined by the Secretary of the Interior to be compelling justification and there can be compensation for the biological benefits of birds that may be taken.

It is my hope that during the conference with the House on this legislation, the provisions in the House bill amending the Endangered Species Act and the Migratory Bird Treaty Act be deleted. The Committee on Environment and Public Works is the appropriate committee to examine the need for any such environmental legislation and to act upon any such legislation.

Mr. BYRD. Mr. President, I have serious concerns about the amendments that have just been adopted to add $814 million to either missile defense funding or combating terrorism. We have heard a day and a half of debate on these amendments, which relate to one of the great issues of our national defense policy. I am stunned that these important amendments were accepted without a rollcall vote.

My concern with these amendments are numerous. The supposed offset for these additional funds is, at the moment, nothing more than a work of fiction. Supposedly, the Office of Management and Budget, in its mid-session review of the budget, will revise downward its estimate of the inflation rate. Not only is this report yet to be released, but also we are making budget decisions based upon projections that may or may not pan out.

In addition, the amendments backtrack on cuts in the missile defense program made by the Armed Services Committee. As a member of that committee, I think that we made the right choices on trimming a missile defense budget request that was far too large to support a program that remains in an elementary phrase. By pouring so much money so quickly into missile defense programs, we are only encouraging a rush to failure. I am especially alarmed that these amendments allow for more missile defense funding at a time when the programs are becoming increasingly shrouded in secrecy, as if the Pentagon wishes to stifle public debate about the utility and effectiveness of anti-missile systems.

The amendments leave the decision about whether to use $814 million for missile defense or for combating terrorism entirely to the President. There is an alarming trend in Congress to simply delegate the decisions on many important issues to the Chief Executive. The President is the Commander-in-Chief of the military, but the Constitution charges Congress with the authority to ''raise and support armies'' and to ''provide and maintain a navy.'' The Founding Fathers of this country clearly intended to have Congress determine how the funds intended for our national defense would be allocated.

The amendments adopted today delegate, from the Congress to the President, the decision of how to use $814 million. It is an advoidance of our constitutional responsibilities. The amendment offered by the chairman of the Armed Services Committee establishes the top priority for these funds to be used for combating terrorism at home and abroad, but I have no idea for what purposes these funds could be used. I do not know whether I would have supported this amendment, but it is profoundly disappointing that Senators did not have the opportunity to cast their vote on this proposal.

I had even greater concerns about the underlying amendment, offered by the ranking member of the Armed Services Committee. As I said before, I question the source of the $814 million, the potential for the funds to restore the well-justified cuts in missile defense programs, and its delegation to the President of an important decision on the funding of our military. But again, I did not have the opportunity to register my vote.

I hope that my colleagues would take a more careful look at what powers we invest in the President. We should also take a look at how we dispose of such important business as increasing the missile defense budget by $814 million. We must never allow ourselves to be absolved of our constitutional responsibilities to decide and vote on matters of such great importance.

Mr. FRIST. Mr. President, I thank the distinguished chairman and ranking member of the Senate Armed Services Committee for their assistance and support in authorizing funding for a military construction project of critical importance to the State of Tennessee and the United States. I also thank the skilled staff members on the Senate Armed Services Committee who assisted this action: George Lauffer and Michael McCord.

The amendment in question was advanced by FRED THOMPSON and I to authorize $8.4 million in funding for the construction of a Composite Aircraft Maintenance Complex at Berry Field Guard Base in Nashville, TN. This important project is vital to the combat readiness for the 118th Air Wing of the Tennessee Air National Guard. Currently, the 118th is housed in a variety of substandard buildings, some of which are more than 40 years old. This collection of buildings encroaches upon the aircraft clear zone making it difficult for personnel to work and drill, impeding combat readiness and jeopardizing aircraft safety. Aircraft cannot be moved into hangars properly or left on jacks due to wind conditions. All of these problems combine to create significant safety problems and increase the amount of time it takes to repair damaged aircraft. In addition, the 118th needs nine airfield waivers to operate and continue its mission. By constructing this new complex, several of those waivers will be eliminated and the base will be a safer and more efficient place to accomplish its vital mission.

I would like my colleagues to know that the 118th played a vital role in the immediate response to the 9–11 tragedy and continues to contribute importantly to the ongoing national security needs of the country. One item of human interest occurred within an hour after the World Trade Center was attacked by terrorists and all of the Nation's aircraft were grounded by the President. The 118th was called and given approval to fly a donated liver from Nashville to a little girl in Houston, TX. At that time, only three nonfighter aircraft were in the air over the United States—Air Force One, its supporting tanker, and a lone C–130 from the 118th. In the shadow of thousands of people killed in New York City that day, the 118th had the privilege of helping to save a life.

In the weeks after September 11, the 118th was given numerous alert missions requiring Tennessee Air Guardsmen to be on call 24 hours a day, 7 days a week. The aircraft and maintenance personnel were sleeping in an old converted aircraft hangar at night and prepared to fly anywhere at any time.

Early in the month of October 2001, the 118th was again called for an extremely vital mission of National Security and Homeland Security Support. The 118th was one of only five C–130 units deployed for Operation Noble Eagle-QRF (Quick Reaction Force). Their mission was to deploy as soon as possible to a forward base, and be ready for 24/7 operations with a 1-hour alert call out. The 118th proudly performed this mission faster and better than any other Air National Guard, Air Force Reserve, or Active Duty unit. Within 22 hours of notification, the 118th had aircraft in the air moving forward, and was the sole C–130 unit operationally ready at the 48-hour mark.

Over the next 4 months—between October 2001 and February 2002—the 118th became the standard to which other units trained in relation to the QRF. The 118th maintained operational readiness with one-third of the unit deployed, and still preserved exceptionally high training standards at home station.

To date, the 118th has activated more than 340 individuals to support the worldwide mission. The unit is currently supporting Air Mobility Command with 33 percent of its aircraft on a daily basis flying active duty missions. Back at home station, Command and Control has been operating 24/7

ever since September 11. The 118th Command Post and Crisis Action Team have played a critical role in the direction and guidance of the unit's response to every assignment and emergency that has arisen. The base medical department, normally two full-time people, has increased to 13 in order to support the increasing number of wing personnel now on active duty.

In conclusion, on behalf of the men and women of the 118th Airlift Wing, Senator THOMPSON and myself, I would like to thank the chairman, ranking member, and our Senate colleagues for authorizing this important funding.

Mr. BIDEN. Mr. President, the Senate returned yesterday to an issue which, in recent years, has polarized our debate on national security and foreign policy. An amendment proposed by Senator WARNER allowed the President to add $814 million to the research and development budget for missile defense, money that was not recommended by the Armed Services Committee.

It also provided the President the authority to allocate these funds to ''antiterrorism'' projects, but I have no reason to believe the President would choose this latter option.

Senator WARNER's amendment was passed with a second-degree amendment by Senator LEVIN that emphasized that combating terrorism should be the top priority for the use of these funds, although the President could still allocate the entire $814 million to missile defense activities.

It has been my hope that the formal U.S. withdrawal from the Anti-Ballistic Missile Treaty, an event which took place less than 2 weeks ago, would emerge as a real turning point in the debate over national missile defense. From this point forward, I fervently wish that officials of all stripes—executive and legislative, Democratic and Republican—will be freed to evaluate missile defense as we would any other major defense initiative.

The touchstone for evaluating any missile defense must be the test that the American people sent us here to propound: Will this program make the United States more secure, or less so? Will national missile defense be operationally effective under real-world conditions, or will it remain a system that no commander can rely on?

Yesterday's passage of the Warner amendment was not a final decision on the future of national missile defense, nor was it a referendum on the President's decision to withdraw from the ABM Treaty. Even if the amendment had fallen, the Senate would still have authorized $6.8 billion in fiscal year 2003 on missile defense activities, a significant sum of money of any measure.

The proponents of the Warner amendment contended that an $814 million reduction in an administration request totaling $7.6 billion would seriously hamper our Nation's efforts to move forward on missile defense. Let's take a closer look at a couple of these reductions proposed by the Armed Services Committee:

A cut of $200 million for a number of overhead activities, variously described as ''Program Operations'' or ''Systems Engineering and Integration,'' which are repeated multiple times in the administration's budget request. The administration cited this particular cut as an attempt by missile defense opponents to block the effective integration of missile defense components.

Despite repeated requests by the Armed Services Committee, however, the Missile Defense Agency never justified these duplicative requests or explained how they would fit together to enhance system integration.

A reduction of $30 million, requested by the administration for the purchase of a second Airborne Laser prototype aircraft. However, the Pentagon does not plan to test the first Airborne laser aircraft until fiscal year 2005. Doesn't it make sense to delay the purchase of a second model until you get some feedback from the testing of the initial model? After all, there are real questions regarding payload and beam stability in bad weither, which relate as much to the aircraft as to the laser.

Contrary to what missile defense advocates contended, the Armed Services Committee did not set out to destroy our national missile defense effort. If that has been their intention the committee would have cut far more than $814 million in a $7.6 billion budget.

This debate was also over priorities. How should the United States spend an extra national defense dollar: On missile defense or on other more pressing needs? In my view, when we consider underfunded antiterrorism missions, one stands out above the beyond the others.

Our first line of defense in today's world should be to ensure that rogue states and terrorists never obtain weapons of mass destruction or the materials needed to make them. We spend between $1 and $2 billion a year toward this goal. We are nowhere close to the levels recommended by numerous outside experts, including the bipartisan task force headed by Howard Baker and Lloyd Cutler a year ago, which advocated spending approximately $3 billion per year.

The committee's original reduction would still have provided funding for our missile defense efforts that was four to six times what we spend on threat reduction programs. Putting aside the overall merits of national missile defense, I ask one simple question: Why can't we show the same sense of urgency and offer the same level of resources in combating the more immediate risk to a more anonymous nuclear weapon delivered without a ballistic missile, but hidden in the hull of a ship or smuggled in the trunk of a compact car?

Were this any other weapons system but national missile defense, I doubt the Senate would have amended such a modest and sensible committee-recommended funding reduction. Major weapons programs often encounter problems. My friends on the Armed Services Committee are all too familiar with unpredictable testing schedules, skyrocketing budgets, and the need to maintain effective oversight with respect to all weapons programs. And so it is with national missile defense.

The Armed Services Committee recommended some judicious cuts in missile defense funding on account of a lack of clarity and a lack of justification by administration officials. I believe the Senate should have rejected the Warner amendment.

Neither could I support the Levin second-degree amendment. I understood the chairman's intentions—to send a clear message that this body views antiterrorism missions as the greatest priority for our Nation.

He was absolutely right—that is our No. 1 priority. But the second-degree amendment still enabled the President to dedicate some, or even all, of the additional $814 million towards missile defense.

The administration did not prove the case for additional funding for missile defense beyond the $6.8 billion recommended by the Armed Services Committee. Our Nation faces too many threats for which we are not adequately prepared, to justify spending this additional funding on missile defense.

Regardless of what each of us may think or believe on national missile defense, it does not deserve an exemption from the basic principles of rational budgeting and honest oversight which govern every other Pentagon acquisition program.

Mr. DURBIN. Mr. President, I rise today to express my concerns about the serious wilderness and public lands management problems created by title XIV of the House version of the Defense Authorization Act. This provision was added in the chairman's mark at the behest of Representative JIM HANSEN. Title XIV would profoundly impact land management of nearly 11 million acres of non-military public lands falling underneath the Utah Test and Training Range airspace in western Utah.

No hearings were held in either the House or Senate to consider the possible consequences of the sweeping and controversial provisions in title XIV. While the House Resource and Senate Energy Committees would be appropriate venues for such hearings, hearings were not held in these committees, and they were not held in the House or Senate Armed Services Committees. No General Accounting Office or Department of Defense report has ever demonstrated the need for the provisions contained in title XIV. The Department of Defense has never requested the kind of control over non-military public land mandated by the provisions in title XIV.

In truth, title XIV is an attack without justification on the traditional management of wilderness and other nonmilitary public lands.

I wish to add my voice to the voices of Representative IKE SKELTON and 19 other House Democrats serving on the Armed Services Committee who noted in the committee report that:

''The military use language of title XIV is unprecedented and not found in any other law. Ironically, these provisions set a standard for wilderness management that would provide less protection to the wilderness areas designated by title XIV than the protections available to non-designated public lands. Millions of acres of designated wilderness and millions more acres of public land underlie military airspace across the United States. None of these lands have or need the restrictive language that title XIV would apply to wilderness and public lands in Utah.

''Language in title XIV would strip the authority of the Secretary of the Interior to determine where and whether facilities and equipment are placed on public lands within wilderness areas. Another provision allows the Secretary of the Air Force to unilaterally close or restrict access to wilderness and WSAs outside the boundaries of the UTTR and the Dugway Proving Grounds. These provisions are unprecedented, and no clear rationale has been given to warrant this change from existing law. Moreover, title XIV creates a different standard for access and military use for land in Utah than is applicable to all other public land areas of the United States.

''Furthermore, title XIV requires the Secretary of the Interior to gain the prior concurrence of the Secretary of the Air Force and the commander-in-chief of the military forces of the State of Utah before developing, maintaining, or revising land use plans required by Federal law for millions of acres of public lands in Utah. Is it unwise policy, to say the least, for a Cabinet secretary's role to be subordinate to a service secretary and a state military commanders.''

Taken together, the provisions in title XIV go far beyond any language ever included in enacted wilderness legislation, they put in place unprecedented high levels of Department of Defense control for all nonmilitary public lands falling underneath the airspace of the Utah test and Training Range, and they designate as wilderness, albeit wilderness in name only, merely a small portion of lands included in America's Redrock Wilderness Act, S. 786, of which I am the lead sponsor.

I urge those Senators who will serve conferees on the Defense Authorization Act to work for the removal of title XIV in conference.

I also would like to speak for a moment on two additional provisions within the Department of Defense authorization bill that passed out of the House, HR 4546. These measures weaken protections for endangered species and migratory birds.

I would like to state for the record that there are existing provisions that allow for case-by-case exemptions to address national security interests. For example, section 7(j) of the Endangered Species Act, ESA, gives the Secretary of Defense the authority to secure an exemption from the ESA's provisions whenever the Secretary finds it necessary for reasons of national security. Moreover, title 10 U.S.C. 2014 specifically empowers the President to resolve any conflicts between the DOD and other executive agencies that affect training or readiness. These waivers should be invoked on a case-by-case basis, rather than giving the DOD a blanket exemption to ignore laws that protect the air and water in and around our military facilities, the health of the people who live on and nearby bases, and America's wildlife and public lands.

Again, I urge my colleagues who will serve on the conference for this bill to reject any permanent weakening of or permanent waivers enabling the circumvention of our Nation's environment and public health laws.

Mr. BUNNING. Mr. President, I was proud to support the recent passage of S. 2514, the National Defense Authorization Act for fiscal year 2003. This bill continues to strengthen our military and is vital to the war on terrorism.

This is the most important bill we have debated in the Senate all year. The threats against us are real and I am pleased the Senate acted swiftly in passing this strong defense package. This bill authorizes $393.4 billion for national defense. That is $43 billion above the 2002 level, and the largest defense spending increase in over 20 years.

We are in this war against terrorism for the long haul and our increased military funding is justified. We now have troops on the ground in Afghanistan, the Philippines, and many other places we could not have foreseen before September 11. Depending on what happens as we fight this war, we may have to deploy our troops elsewhere to contain and battle threats against our Nation and freedoms.

This bill focuses on five objectives for our national defense.

First, it improves the compensation and quality of life for our soldiers, retirees and their families. For the fourth year in a row this bill includes a 4.1 percent across the board pay raise for all military personnel, with a targeted pay raise between 5.5 and 6.5 percent for mid-career personnel. A new assignment incentive pay of up to $1,500 per month is authorized to encourage personnel to volunteer for hard-to-fill positions and assignments.

The bill rewards our retirees and disabled veterans. The bill authorizes concurrent receipt of retired military pay and veterans' disability compensation for all disabled military retirees eligible for non-disability retirement.

For our troops with families, this bill increases the housing allowance, with the goal of eliminating average out-of-pocket housing expenses by 2005. And on our installations, $640 million is being added above the budget request to improve and replace facilities. This will help improve the housing, dining and recreation facilities for our trainees and troops.

These quality of life issues boost the morale of our troops, and send a strong signal that we in congress and across the Nation appreciate their defense of America and her freedoms.

Secondly, this bill also contains those necessary readiness funds to allow the services to conduct the full range of their assigned missions. We have added $126 million for firing range enhancements so that we can properly and effectively train our troops to fight and win.

And to show that defense is a top priority for our Nation, this bill authorizes the administration's $10 billion request to cover the operating costs of the ongoing war on terrorism for next year. After speaking with various military leaders and hearing their testimony before the Senate Armed Services Committee, we heard how important the issue of readiness is for every branch of the military today. This bill addresses this important issue by funding the most pressing shortfalls.

Third, in this bill we also address the goal of improving efficiency and increasing savings with DOD programs and operations. These savings will allow us to redirect and focus on high-priority programs within the DOD.

Some of these provisions include $400 million in anticipated savings by deferring spending on financial systems that would not be consistent with those financial management systems available and used by non-government entities. Soon we will have a system to better keep track of valuable DOD and service funds. This brings not only savings, but accountability to the DOD and the services. Although the DOD's mission is more unique than any other Federal department, it is not immune to wasteful and duplicative spending which we often see in other Federal departments.

Furthermore, this bill holds a provision requiring the DOD to establish new internal controls to address repeat problems with the abuse of credit cards we have seen for the purchase of non-essential and questionable travel spending by military and civilian personnel. And with the $393.4 billion we are authorizing in this bill, it is imperative now more than ever that we have a real sense of accountability for oversight reasons and for the sake of making sure we are giving the taxpayers the biggest bang for the buck. After all, this bill spends more than $1 billion a day on national defense activities. For that price, the taxpayers should get their money's worth.

Fourth, this bill also helps our military meet more non-traditional

threats. We increased funding for fighting these threats to help secure our nuclear weapons and materials at Department of Energy facilities, and defend against chemical and biological weapons and other weapons of mass destruction.

Finally, our Senate Armed Services Committee wanted to be sure that our military always stay on the cutting edge of new technologies and strategies to meet the threats of the 21st century. Promoting and embracing transformation of our forces is not easy. But it is essential. This bill helps us to promote a new mind set for the future. I know it is tough to wean ourselves off of some of the legacy systems and structures in place in our armed forces. And I know that some in our armed forces are skeptical about change. But we have to begin to think differently. The world is changing, and not necessarily for the better. Our military has to keep up with that change.

While I did vote for this bill in the Senate Armed Services Committee, I did not agree with the fact that it originally slashed missile defense spending by just over $800 million. This drastically altered President Bush's national security strategy and made our Nation and allies more vulnerable to a possible missile attack.

But thankfully we found a way on the Senate floor during the bill's consideration to move just over $800 million back to President Bush's missile defense priorities to protect America. I was proud to cosponsor an amendment which fulfilled this obligation by using expected DOD inflationary savings and adjustments. This offset was responsible because it did not cut any other valuable DOD programs needed to strengthen our military. And I was pleased that this was a bipartisan effort by the Senate with the amendment's unanimous acceptance.

But, thankfully this amendment was accepted. Without it, this vital bill was jeopardized. After all, Secretary Rumsfeld, in a letter to the Senate Armed Services Committee wrote, ''if the missile defense provisions in the Senate Armed Services Committee's version of the bill were to be adopted by Congress, I would recommend to the President that he veto the Fiscal Year 2003 National Defense Authorization Act.'' So, its inclusion helped pave the way to an optimistic path to President Bush's desk.

Finally, we have had a very intense debate about the Crusader Artillery System. I would like to note that while I supported the compromise Levin amendment last week over the Crusader program, I remain concerned about our ability to effectively support our troops with adequate fire support. Right now we are vastly under-gunned in artillery by some nations. Our own artillery systems could not even meet our needs during the Gulf war more than a decade ago. And those systems have not significantly changed since then.

The possibility of shifting funds from Crusader to other indirect fire weapons concerns me in that we are again delaying when we will actually deploy sufficient fire support to protect our armed forces. The DOD hopes to speed up the deployment of these new technologies so they would be available around the same time Crusader will be. I am concerned about our ability to meet this time line.

Throwing money at a program does not necessarily mean you can magically speed up its development. Some things just take time, and Crusader is a lot farther along in the development process than many of these other technologies. I will be watching this process closely to ensure that effective indirect fire support capability reaches our troops quickly.

Overall, this is a solid bill. The sooner we get this bill to President Bush, then the better chance we have at providing our military with the essential training and strength resources to fight terrorism or anything else that seeks to destroy America, our people and our freedoms.

Mr. ROBERTS, Mr. President, I wish to clarify my comments concerning my amendment to authorize, with an offset, $1,000,000 for research, development, test, and evaluation, defense-wide, for analysis and assessment of efforts to counter possible agroterrorist attacks. The amendment was adopted June 26 by voice vote. I stated then that the $1,000,000 was destined for the In-House Laboratory Independent Research (PE 0601103D8Z) account. In fact, the funds will be applied to the Chemical and Biological Defense Program (PE 0601384BP) account. The intent of the amendment, however, remains the same. It is still my hope that universities with established expertise in the agricultural sciences can conduct studies and exercises that lead to better coordination between Federal, State, and local authorities as they attempt to detect, deter, and respond to large scale coordinated attacks on U.S. agriculture. I envision universities assisting the Department of Defense in determining what role—if any—our military or defense agencies play in countering agroterrorism. I thank my colleagues for supporting amendment No. 4138.

Mrs. FEINSTEIN. Mr. President, I rise today to thank the leadership on both sides of the aisle for clearing an amendment I introduced with my colleague from Alaska, Senator STEVENS, to prohibit the use of nuclear armed interceptors as part of a Ballistic Missile Defense System (BMDS).

Senators LEVIN and WARNER have shown tremendous leadership by working hard to address this important issue, and I want to personally thank them for their efforts.

I want to comment briefly on the details of the amendment because I feel so strongly, as do my colleagues in the Senate, that both Chambers of Congress move to prohibit nuclear armed interceptors.

A nuclear armed interceptor is a defensive missile that uses a nuclear, rather than conventional, explosive tip to destroy its target. It is based on the premise that a large blast will overwhelm all of the components of an enemy missile.

The Washington Post reported in April of this year that the Pentagon was pursuing plans to resume research and testing of nuclear armed interceptors as part of a Ballistic Missile Defense System (BMDS).

I think this would be a great mistake and would endanger the health and safety of all Americans.

The Post reported on April 11 that the Defense Science Board, a research body within the Department of Defense, received encouragement from Secretary Rumsfeld to consider using nuclear tipped warheads for a missile defense system.

On April 17, Senator STEVENS and I, at an Appropriations Defense Subcommittee hearing, asked General Kadish of the Missile Defense Agency to refute the Washington Post story. He responded that his agency would not conduct research into nuclear warheads.

To further clarify the point, we also asked Secretary Rumsfeld to address the allegation in writing. He also assured us the Pentagon would no longer encourage such testing.

Inexplicably, in this year's House Armed Services Committee report on the House passed Defense authorization bill, there is language sanctioning nuclear interceptor research. The report states:

> The Department may investigate other options for ballistic missile defense nuclear armed interceptors, blast fragment warheads . . . as alternatives to current approaches . . .

This troubling development led Senator STEVENS and me to introduce today's amendment, which prohibits any funds from being used for nuclear armed interceptors.

Our amendment simply states:

> None of the funds authorized to be appropriated by this or any other Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

The use of nuclear armed interceptors represents a deeply troubling departure from the missile defense testing that has occurred up to this point.

For the past year, the Pentagon has been pursuing a technically problematic approach to missile defense.

They have attempted to ''hit a bullet with a bullet.''

This means that the missile defense system has to individually hit each incoming warhead in order to eliminate the total threat.

But under this system, the Missile Defense Agency still fails to address the decoy warheads and other countermeasures that force our systems to rapidly determine which is the actual warhead to be targeted and which is simply a decoy.

This core dilemma led the Pentagon to explore the concept of using a nuclear armed interceptor to destroy all of the incoming warheads, real and decoy alike.

Instead of targeting a particular missile, a nuclear tipped interceptor would be exploded in the vicinity of the missile, ensuring the destruction of the missile and any others objects around it.

This approach raises serious questions about the confidence the Missile Defense Agency appears to have in its current ''Hit a Bullet with a Bullet'' plan.

But perhaps more importantly, this approach overlooks a laundry list of catastrophic side-effects that would accompany a nuclear blast in the atmosphere.

Even a low-yield nuclear blast in the atmosphere would have grave consequences on public health and on the global economy.

Atmospheric winds could potentially spread fall-out over American or allied sovereign territory, the very territory we are trying to protect from nuclear attack.

Add the possibility of intercepting a chemical or biological warhead, and we exponentially increase the risk of spreading spores or chemical agents over a wide area.

The Electromagnetic Pulse (EMP) from an overhead nuclear blast would severely disrupt and most likely permanently damage U.S. and foreign satellites.

These are the very satellite systems we rely on to provide us with early warning and key intelligence for national security operations.

I think we all can see the serious ramifications of pursuing such an ill-advised policy, and I believe that this amendment is needed to prevent us from going down this path.

As Senators from two States that could feel the brunt of radiological, chemical or biological fall-out in the event of a missile defense activation, we are compelled to act.

But make no mistake about it, every State in the Union faces the specter of contamination.

Given the language included in the House bill promoting nuclear intercept research, it is critical the Senate take a leadership role by preventing such research and testing.

I urge my colleagues to support this amendment and inject some common sense into the debate over the future of missile defense.

Ms. SNOWE. Mr. President, I rise to speak on the Senate version of the FY2003 National Defense authorization bill.

As a former member of the Senate Armed Services Committee and former chair of the Seapower Subcommittee, I fully appreciate the hard work and long hours my colleagues in the Senate and their counterparts in the House have dedicated to the completion of the bill.

There are many important provisions in this bill. However, there are also some critical defense requirements which were overlooked. And I would like to take a moment to address those concerns.

First and foremost, with the enormous increase in the defense budget overall, I am deeply troubled that we would fail to sustain the size of our naval fleet, which has played such a critical role in the war on terror.

Admiral Robert J. Natter, Commander in Chief of the U.S. Atlantic Fleet, captured it best when he said ''We fight them here, or we can fight them there—it's America's choice.'' And he continued ''I'd prefer to fight them there, because I know we can beat them.''

Well, we can't fight them there without a Navy. In the opening days of Operation Enduring Freedom, our Navy fired over 90 Tomahawk cruise missiles aimed at crippling Taliban air defenses. The Navy executed the majority of the air strikes in the land war. Aircraft-carrier based fighter and strike aircraft launched 60 to 80 missions a day dropping thousands of bombs on terrorists and Taliban targets. More than 50 Navy ships participated in the action. I am proud of our Navy, but the fact of the matter is, if we do not increase the ship procurement rate, the size and strength of our fleet is going to be diminished.

If we allow this to happen, we are doing future generations a great disservice. Because the reality is that, when the United States us unable, for whatever reason, to launch military strikes from ground bases in a region where U.S. interests are at stake, there are times when our Navy may be the only option.

Yet, the fleet was stretched too thin even before Operation Enduring Freedom. When I was chair of the Senate Seapower Subcommittee, I heard this time and again from senior Navy officials. As the war on terror continues, I believe it is more important than ever that we maintain a fleet large enough and strong enough to project the power we need in order to safeguard U.S. interests.

These are the facts, The Administration proposed in its budget to procure five new Navy ships in Fiscal Year 2003 and a total of 34 new Navy ships through Fiscal Year 2007. This is an average of 6.8 new ships per year. But we need 8.9 ships per year just to maintain a 310-ship fleet.

The size of the fleet could fall to 263 ships by 2015 to 2025 if we do not reverse this trend. Last year, Secretary Rumsfield painted an even more dire picture, estimating that the Navy could end up with a 230 ship Navy in the 2025 time frame without substantial increases in the build rate. Contrast this with the size of our fleet in 1987 when we had 568 ships.

I know that the administration recognizes the problem, and I credit them with understanding the need to build more ships in the future. The DOD and the Navy have acknowledged the need to build more ships. Last year, a study conducted by the Office of the Secretary of Defense concluded that the Navy should have 340 ships. Navy officials put the number at 370–380. And they should know. They are the men and women who are responsible for our forward deployed forces. But we need to help them by taking action. Whatever the ultimate number, we need to reverse the current trend and begin to build a bigger fleet. But we need to begin to produce more ships now, because there is not doubt that the size of our naval fleet is a vital matter of national security. We can't afford to wait any longer.

We can't afford to risk this essential component of our world-wide defense force. After all, 80 percent of the planet's population lives along the coastal plains of the world, and it is the Navy that has the capability that is imperative if we are to maintain military superiority and defend America's national interests in the 21st century. For even with today's rapidly changing and diverse security threats, there is no foreseeable future that would have our security interests best served by a diminished naval fleet.

Despite the fact that Secretary England has endorsed funding for a third destroyer, for example, this bill fails to fund an additional ship. To maintain readiness and to sustain the industrial base, we desperately need a third destroyer authorized and funded in fiscal year 2003.

Even to maintain a 116-ship surface combatant force, given the projected service life of 35 years for DDG–51 Class ships, requires a sustained replacement rate of over three ships per year. If you assume a 30-year service life, which is more realistic historically, sustaining even the 116-ship surface combatant force would require annual procurement of almost four DDGs each year.

And at a rate of only two destroyers a year, it may be difficult to sustain the yards that have historically built these critical platforms. That is why I was pleased to team with Senator COLLINS to extend the multi-year procurement rate for DDG destroyers through fiscal year 2007. As chair of the Seapower Subcommittee, I secured procurement authorization for three DDGs annually through fiscal year 2005, and this bill extends that authorization for an additional two years. It is still imperative to add a third destroyer to the fiscal year 2003 budget, but this multi-year procurement is a step in the right direction.

While I am very concerned about the failure to fully fund the shipbuilding accounts, I do believe credit is due in some other important areas. For example, the bill does make some invaluable personnel contributions. The measure includes a 4.1 percent across-the-board pay raise for all military personnel, with an additional targeted pay raise for the mid-career force. It includes a

provision authorizing the concurrent receipt of military retirement pay and veterans disability compensation for military retirees with disabilities, an effort which I have long supported.

The bill also reaffirms Congress's commitment to the war on terror by funding requirements needed to support our Soldiers, Marines, Sailors, and Airmen who are on the front lines with the planes, vehicles, ships and armaments they need to carry out their critical missions.

The bill would set aside $10 billion, as requested by the administration, to fund ongoing operations in the war against international terrorism during fiscal year 2003. And it includes substantial funding to meet asymmetrical terrorist threats including chemical, biological, and nuclear weapons and develop the agility, mobility, and survivability necessary to meet the challenges of the future.

It would increase by $199.7 million funding to enhance the security of nuclear materials and nuclear weapons at Department of Energy facilities. It would increase funding for U.S. Special Operations Command by $42.7 million. Defenses against chemical and biological weapons and other efforts to combat weapons of mass destruction would see an increase of $30.5 million. And the bill would find the request of over $2 billion for force protection improvements to DOD installations around the world.

Finally, the bill would also make possible continued improvements in the Navy's human resources services with the authorization of $1.5 million for operation of a pilot human resources call center in Machias, Maine under an amendment I worked to include in the bill.

This call center went on-line in January of this year. I worked hard with the Navy to locate this facility in Washington County, ME to help compensate for the loss of military personnel at the Cutler Naval Computer and Telecommunications station in Cutler, a communication center used to provide contact with U.S. submarines in the North Atlantic, Mediterranean and Arctic seas. At its peak there were 220 people working at the base—110 civilians and 110 Navy personnel.

The call center establishes a single national employee benefits center for the Department of the Navy to standardize the ''call in capability'' of services currently performed in eight separate Human Resources Service Centers. This center integrates developed computer and internet technologies to provide updated information immediately to Navy civilians and beneficiaries who make inquiries.

In closing, let me say that I hope during the House-Senate conference on the defense authorization that we will be able to build on the foundation that has been set in this bill and make it an even stronger bill.

Mr. FEINGOLD. Mr. President, I will vote against the National Defense Authorization Act for fiscal year 2003. I regret that the Senate has missed another opportunity to reorient the thinking—and spending—of the Pentagon.

I strongly support our men and women in uniform in the ongoing fight against global terrorism and in their other missions, both at home and abroad. I commend the members of the National Guard and Reserves and their families for the sacrifices they have made to protect our security and freedom. More than 85,000 National Guard and Reserve forces have been called to active duty since September 11, including personnel from a number of units in Wisconsin. All members of our military and their families—active duty, National Guard, and Reserves—deserve our sincere thanks for their commitment to protect this country and to undertake the fight against terrorism in the wake of the horrific attacks of September 11.

Each year that I have been a Member of this body, I have expressed my concern about the priorities of the Pentagon and about the process by which we consider the Department of Defense authorization and appropriations bills. I am troubled that the Department of Defense does not receive the same scrutiny as other parts of our Federal budget. This time of unprecedented national crisis underscores the need for the Congress and the administration to take a hard look at the Pentagon's budget to ensure that scarce taxpayer dollars are targeted to those programs that are necessary to defend our country in the post-cold war world and to ensure that our Armed Forces have the resources they need for the battles ahead.

There can be no doubt that Congress should provide the resources necessary to fight and win the battle against terrorism. There should also be no doubt that this ongoing campaign should not be used as an excuse to continue to drastically increase an already bloated defense budget.

When adjusted for inflation, the spending authorized by this bill, as it was reported to the Senate by the Armed Services Committee, represents the largest increase in defense spending since 1966. Just how big is this increase? The whopping $393.4 billion authorized by this bill is $152.2 billion more than combined defense budgets of the United Kingdom, Japan, Russia, France, Germany, Saudi Arabia, India, China, South Korea, Taiwan, Iran, Pakistan, Syria, Iraq, North Korea, Yugoslavia, Libya, Sudan, and Cuba.

The $46 billion increase over fiscal year 2002 alone is more than the Defense budgets of any one of these 19 countries. The country with the second-largest defense budget, the United Kingdom, spent just $34.8 billion in 2001. This bill authorizes a defense budget that is more than 11 times greater than that of our closest ally.

A strong national defense is crucial to the peace and stability of our Nation. But a strong economy is also essential to national security. We must not focus on one to the detriment of the other. Many of the expensive weapons systems that are authorized in this bill have little or nothing to do with the fight against terrorism, which is often cited as the reason for the $46 billion increase in defense spending contained in this bill. I am concerned that if we continue down this path, defense spending will spiral further out of control, perhaps putting other areas of our economy at risk.

I am pleased that the Senate adopted an amendment to cut funding for the Army's Crusader mobile artillery program. I support the Secretary of Defense's decision to cancel this outdated program. Last month, I introduced legislation that would terminate the Crusader program, saving taxpayers an estimated $10 billion over the life of the program. I commend the Secretary of Defense for his efforts to transform our military to meet the challenges of the 21st Century and beyond, and agree that cold war-era dinosaurs such as the Crusader should be terminated.

I regret that so little progress has been made to transform the military for these new challenges. The hard-fought battle to terminate the Crusader program—a program that was canceled by the Secretary of Defense—stands as an example of how difficult it is to change the mind-set of the Pentagon and the Congress. The beleaguered Crusader is the poster child for an obsolete, cold war-era program, yet there are those in the Congress and at the Pentagon who are digging in their heels and trying desperately to save it. The termination of a weapon system such as the Crusader is an example of the hard decisions that this body will have to make as we face the realities of the federal budget and as we seek to provide our Armed Forces with the equipment they will need to fight the battles of the future.

I am pleased that this bill authorizes an increase in full-time manning for the Army National Guard. As we continue to call upon the Guard and Reserves for active-duty missions that are longer in duration, the role of the full-time Army National Guard personnel who support these missions becomes increasingly important. The Army National Guard relies heavily on Active Guard/Reserves and Military Technicians to perform a wide variety of essential day-to-day operations, ranging from equipment maintenance to leadership and staff roles.

According to Lieutenant General Roger C. Schultz, Director of the Army National Guard, ''Increased full time support is an absolute necessity for Army National Guard units as the Army places greater reliance on the Army National Guard to provide trained and ready soldiers in support of Homeland Security efforts, as well as forces for theater Commander in Chiefs in support of the National Military Strategy. These full time personnel are the vital link for the traditional part

time Army National Guard commanders working to achieve expected readiness goals. Units that are understrength in full time support personnel have difficulty maintaining pace with current elevated Operational Tempo. Consequently, many units fail to attain and maintain readiness levels.''

This bill authorizes 724 additional Active Guard/Reserve positions and 487 additional military technicians, which, according to the National Guard Bureau, are the minimum essential requirements for full-time manning for the Army National Guard. These increases match those contained in an amendment that I offered to the fiscal year 2003 budget resolution that was adopted unanimously during the Budget Committee's mark-up earlier this year.

I am troubled that the Senate added to the bill the $814.3 million that the Armed Services Committee cut from the President's request for national missile defense by the unfortunate adoption of an amendment offered by the ranking member of the committee, Mr. WARNER. The amendment would allow the President to spend this money on missile defense or on defense activities to combat terrorism at home and abroad. This bill, as reported to the Senate, includes $6.8 billion for the still unproven missile defense system. While I did not originally oppose legislation authorizing development of a missile defense system, I remain skeptical about the need for such a system. Congress should maintain tight cost controls over this system, as the Armed Services Committee attempted to do by cutting $814.3 million for a number of questionable aspects of the Administration's request. I am still concerned that the $6.8 billion in the bill is far too much for this program, but these cuts were a step in the right direction.

I am also concerned that the proposed offset for the additional funding in the Warner amendment comes from ''amounts that the Secretary determines unnecessary by reason of a revision of assumptions regarding inflation that are applied as a result of the midsession review of the budget conducted by the Office of Management and Budget during the spring and early summer of 2002.'' This flimsy accounting gimmick should not be cited as an offset. In reality, there is no offset for this spending increase.

I am pleased that the Senate adopted a language offered by the chairman of the committee, Mr. LEVIN, that directs that priority for allocating any funds made available to the Department by a lower rate of inflation be given to ''activities for protecting the American people at home and abroad by combating terrorism at home and abroad.'' Clearly, the proposed missile defense system does not fit this definition. But I am troubled by the underlying Warner amendment because I oppose giving the President the option to spend additional funding on missile defense.

I am pleased that the committee included in the bill language that will help to improve congressional oversight of the missile defense program by, one, requiring that the Director of Operational Test and Evaluation conduct an annual operational assessment of the program and that the Joint Requirements Oversight Council review the cost schedule and performance criteria for the program, and, two, requiring that the Secretary conduct a review of the major elements of the missile defense program and report to Congress cost and schedule information similar to that required for other major defense programs.

Turning to another issue, I continue to be concerned about the Marine Corps' troubled V–22 Osprey program. I met recently with Colonel Dan Schultz, the Marines' V–22 Program Manager, and others to discuss the status of this program and to express my concerns about the Osprey. I appreciate Colonel Schultz' commitment to ensuring that the Osprey is a safe and effective aircraft and his thoughtful approach to the new flight testing program, which began on May 29.

The safety of our men and women in uniform should continue to be top priority as we consider the Osprey's future.

I am troubled that the Osprey nearly made it to a Milestone III production decision in late 2000 with extensive problems in its hydraulics system and flight control software. While I appreciate the hard work that the Marines and the contractors have done to correct these problems, I remain concerned that there is no clear answer for why these deadly problems, which combined to cause the December 2000 crash that killed four Marines, weren't discovered much earlier.

I am also troubled by the lack of concrete information about how to avoid the dangerous vortex ring state, which occurs when the Osprey descends too rapidly. I remain concerned about the effect that the vortex ring state could have on the ability of the Osprey to perform in combat, especially if a pilot has to make a fast exit from a hostile situation. I will monitor closely planned extensive testing that the Marine Corps has planned to study this phenomenon and ways to help pilots avoid it.

The ongoing flight tests should provide a definitive assessment of the aircraft's capabilities. If the Osprey is not up to the job, then the Defense Department should be prepared to consider other alternatives that will meet the needs of the Marine Corps in a safe and cost-effective manner. I will work to ensure that Congress maintains strict oversight of the testing program.

In addition, I will oppose any attempt to increase procurement of the Osprey beyond the minimum sustaining rate until the Marine Corps has demonstrated that the Osprey is safe and effective and meets or exceeds all of its performance criteria. I am still not convinced that the Osprey will work, and whether it can be made to work in a cost-effective manner.

In sum, as I have said time and time again, there are millions upon millions of dollars in this bill that are being spent on outdated or questionable or unwanted programs. This money would be better spent on programs that truly improve our readiness and modernize our Armed Forces. This money also would be better spent on efforts to improve the morale of our forces, such as ensuring that all of our men and women in uniform have a decent standard of living or providing better housing for our Armed Forces and their families. For those reasons, I will oppose this bill.

Mr. JEFFORDS. Mr. President, I want to thank the chairman, the ranking member, and the staff of the Senate Armed Services Committee for their efforts to address my concerns with the current funding situation for the National Guard Competitive Sports Program. I hope this issue can be resolved in conference.

Mr. President, our world as we know it changed dramatically after the events of September 11, 2001. I believe we must support the President of the United States in a time of war and I think the Fiscal Year 2003 National Defense Authorization Act does exactly that. However, I think we must not lose sight of the fact that we still rely on an all-volunteer force to man the ranks of our military. This means we must, even in a time of war, continue to have a robust retention and recruiting program, especially if the war on terrorism becomes a lengthy one. The best recruiting and retention programs are those that enable the services to get out and interact with the public, which brings me to an issue I would like to see rectified in conference.

We need a minor change in current law, which would allow National Guard units to use a small amount of appropriated funds to sponsor sports competitions and send Guard members to those competitions. As the law reads now, only non-appropriated funds may be used to cover expenses such as health, pay, and personal expenses for participating National Guard members. Unlike our active forces, the National Guard does not have access to non-appropriated funds as they do not own or operate non-appropriated fund generating functions, such as military exchanges, commissaries, and the like.

Unlike Active Duty military personnel who have all health, pay, and personal expenses covered while participating in competitive sports, National Guard members are not on duty while competing in sporting events, and thus are not covered. For example, if a National Guard member suffers an injury while competing at the marksmanship competition, the service member must pay for the incurred health costs although the individual was competing with his or her Guard unit. And, unfortunately, placing National Guard

members on orders, as occur when military reservists participate in these competitions, is not a solution to the coverage issue.

The senior Senator from Vermont and I had hoped to offer an amendment to allow the National Guard to spend a limited amount of appropriated funds, capped at $2.5 million per year, on its sports program. It should be emphasized that we only seek to allow the National Guard to participate in the same manner as Active Duty military. The House overwhelmingly passed a National Guard Sports amendment offered by Representative BEREUTER to their Fiscal Year 2003 National Defense Act, which is identical to the change I seek. I urge the chairman and ranking member to adopt the Bereuter provision in the House bill when the Fiscal Year 2003 National Defense Authorization Act goes to conference.

On 17 June 2002, Colonel Willie Davenport, Chief of the National Guard Bureau's Office of Sports Management passed away while on travel between duty stations. I did not know Colonel Davenport, but my staff informs me that he was by all appearances a gentle, modest, and gracious man. My staff worked extensively with Colonel Davenport in preparing an amendment concerning National Guard Sports. I read the Guard's recent press release concerning Colonel Davenport, and I was quite impressed by his accomplishments as a teacher, mentor, coach, and soldier. What many may not know is that Colonel Davenport while serving as a soldier was also a five-time Olympian. He won Gold in the 110-meter high hurdles while representing the United States in the 1968 summer Olympics in Mexico City, and that was only the beginning. Colonel Davenport went on from there to represent the Army and the United States in a variety of capacities in the competitive sports world. He coached the All-Army Track and Field Team from 1993–1996, which was undefeated all 4 years. Colonel Davenport in his capacity as a teacher, mentor, coach, soldier and Olympian made a very positive, and lasting impression on a good number of young men and women who came to know, work, and enjoy his company. A man of his character and accomplishment will be missed. We know that he has prepared a good number of others to continue to light the path ahead. Colonel Davenport had a dream. His dream was to develop a program that would train and sponsor premier Army and Air National Guard athletes for international competition.

Colonel Davenport's National Guard Competitive Events Sports Program provides National Guard members with an opportunity to hone their training-related skills, such as running, swimming, and marksmanship, in a competitive atmosphere. As the National Guard actively recruits new members, this can be another feature in recruitment and retention programs for certain members of the National Guard. Through these competitions, National Guard members can qualify for higher-level national and international competitions, including the Pan American Games and the Olympics.

National Guard members who compete in athletic and small arms competitions could then do so with members of the Active Duty military. Bringing Active, Reserve, and National Guard components together at these competitive sports events will help build greater service component cohesiveness.

While recruiting, retention, esprit de corps, and community support have always been important to maintaining a strong National Guard structure, they have become even more critical as we wage the war on terrorism during which our men and women in the National Guard are more frequently called into duty overseas and to provide security on the homeland.

The National Guard needs a change in the law if Colonel Davenport's National Guard Competitive Events Sports Program is going to survive. The National Guard must be able to sponsor competitions and send its members to those competitions, as they are an important tool and incentive to recruit and retain some of America's best and brightest.

This issue is important to the Vermont Guard and the National Guard as a whole. I hope we can provide the National Guard with the authority they need to have a robust sports program.

Ms. SNOWE. Mr. President, I rise today to speak in favor of the amendment offered by my friend and colleague, Senator HUTCHISON, regarding base closures.

Last year, with the passage of the fiscal year 2002 National Defense Authorization Act, Congress authorized a round of base closures in fiscal year 2005. So we are now on a path to a base closure round in 3 years.

Even before the horrific attacks of September 11, 2001, there were serious questions about both the integrity of the base closing process itself as well as the actual benefits. Now, with the U.S. in the midst of a war on terror, with no end in sight, I do not believe base closure is a wise path. Instead, Congress was pressed to authorize a base closure round in the dark.

Proponents of base closure claim that efforts to reduce infrastructure have not kept pace with our post cold war military force reductions, and that bases must be downsized proportionate to the reduction in total force strength. However, there is no straight line corollary between the size of our forces and the infrastructure required to support them.

Since the end of the cold war, through fiscal year 01, we reduced the military force structure by about 36 percent and reduced the defense budget by about 40 percent. But while the size of the armed services has decreased, the number of contingencies that our service members have been called upon to respond to in the last decade has dramatically increased. And, keep in mind, once property is relinquished and remediated, it is permanently lost as a military asset for all practical purposes.

In addition, advocates of base closure allege that billions of dollars will be saved. And yet, the Department of Defense has admitted that savings will not be immediate—that approximately $10 billion would be needed for up-front environmental and other costs; and that savings would not materialize for years.

This is why I was pleased to team with Senator HUTCHISON in her effort to establish some basic criteria designed to guide the process, and I deeply regret that the Senate will not have the opportunity to adopt these provisions.

Senator HUTCHISON's provision, of which I am an original cosponsor, would set criteria for the base closure process—to make the process less political, less subjective, and more objective.

The Hutchison amendment would have made sure that the process accounts for force structure and mission requirements, force protection, homeland security requirements, proximity to mobilization points, costs of relocating infrastructure including military construction costs, compliance with environmental laws, contract termination costs, unique characteristics of existing facilities, and State and local support for a continued presence by the military.

I want to protect the military's critical readiness and operational assets. I want to protect the home port berthing for our ships and submarines, the airspace that our aircraft fly in and the training areas and ranges that our armed forces require to support and defend our nation and its interests. I want to protect the economic viability of communities in every State. And I want to make absolutely sure that this Nation maintains the military infrastructure it will need in the years to come to support the war on terror.

In short, we must not degrade the readiness of our armed forces by closing more bases. I thank Senator HUTCHISON for her leadership on this important issue, and I remain hopeful that if we press ahead with this ill-conceived base closure round in just 3 years time we will have an opportunity to at least establish sound, basic ground rules.

Mr. WELLSTONE. Mr. President, I rise to address the subject of our Nation's security needs in the context of the Defense authorization bill presently before the Senate.

I believe we must provide the best possible training, equipment, and preparation for our military forces, so they can effectively carry out whatever peacekeeping, humanitarian, warfighting, or other missions they are given. They deserve the targeted pay

raises of 4–6 percent, the incentive pay for difficult-to-fill assignments, and the upgrades to currently substandard housing contained in this bill. Under an amendment adopted by the Senate, the women who serve our country overseas in the Armed Forces will be able to obtain safe, privately funded abortions in overseas military hospitals. For many years running, those in our armed forces have been suffering from a declining quality of life, despite rising military Pentagon budgets. The pressing needs of our dedicated men and women in uniform, and those of their families, must be addressed as they continue to be mobilized in the war against terrorism in response to the attacks of September 11. This bill goes far in addressing those needs, and I will vote for it today.

This bill also addresses a fundamental unfairness in the treatment of America's veterans by allowing concurrent receipt of military retiree benefits and VA disability benefits. Under current law, if you are career military and you earned a military pension, and you also have service-connected disability as a veteran, your military pension will be reduced by the amount you receive in VA disability payments. As a result, hundreds of thousands of American veterans, men and women who have served their country, are being cheated out of retirement benefits by this bizarre rule and it is time to make a change. Our disabled veterans have earned their retirement and deserve to receive fair treatment.

Last year we passed this same legislation in the Senate, but it was gutted in the House. The Defense Department says it will recommend a veto of this bill if we restore these benefits. But I do not believe that the President will veto legislation to restore the benefits earned by disabled veterans, while career military men and women are overseas fighting for their country, at great risk to their lives. Instead of making threats, let's sit down and get this done for America's vets.

I also believe the bill addresses some of the serious flaws in the process by which the Defense Department summarily terminated the Crusader Artillery system. I strongly believe in fair, transparent, and informed government-decision making processes, which did not occur in the case of the Crusader. Three Defense secretaries, three Army secretaries, and three Army chiefs of staff, as well as numerous administration officials, testified in support of the Crusader. Yet within a few weeks of this testimony, the Secretary of Defense abruptly terminated the Crusader. The decision was made without consultation with the Joint Chiefs of Staff, without consultation with the Army, and without consultation with members of Congress. The Senate adopted an amendment which would require the Army Chief of Staff and Secretary of Defense to conduct a serious study of the best way to provide for the Army's need for indirect fire support. At the same time, it provides the Secretary of Defense, following the study, a full range of options. These include termination to continued funding of Crusader, to funding alternative systems to meet battlefield requirements.

Another issue I consider to be extremely important in relation to this bill has to do with our own military presence in the Republic of Colombia. As you know, under Plan Colombia, restrictions were placed on the number of U.S. troops and contract personnel in Colombia at any given time. Initially, a 500 troop, 300 contractor limitation was in place. Over time, however, the Senate has acted to address the needs of the Departments of Defense and State by shifting the ration of troop and contractors to 1:1. As a result of recent Foreign Operations Appropriations legislation, the troop cap dropped from 500 to 400, while the contractor cap was lifted from 300 to 400 personnel.

Frankly, I am concerned that attempts may be made to raise the troop and contractor caps in Colombia. I have long argued that the United States should be careful and targeted in how it approaches the conflict in Colombia. I'm sure that most Senators would agree that it is important to retain the present limitations on U.S. troops and contractors in Colombia at 800 thru 400 troops, 400 contractors. Moreover, it is my understanding that the Department of Defense has not asked for the troop cap to be raised in Colombia, nor has the administration sought to have the troop cap waived. For this reason, I would like to be on record in support of present troop and contractor limitations in Colombia.

Although I expect future debate on the contentious issues surrounding U.S. policy in the Andes, I think it is important for the Senate to be clear on this component of our aid to Colombia. I am concerned that we are getting deeper and deeper into a devastating civil conflict with myriad violent actors of ill repute. That said, I continue to hold out hope that the Congress can work with the administration to craft a policy for Colombia that reflects the best of American values, and acknowledges the economic and social needs of Colombia's beleaguered population. The administration should retain the troop and contractor caps in Colombia, and Congress should be adequately consulted should they decide to seek any such change.

I also have concerns about the bill, especially about its missile defense provisions. The initial committee language would have cut total funding for missile defense from $7.6 billion to $6.8 billion. The Senate adopted an amendment to restore the entire $814.3 million that the Senate Armed Services Committee cut from missile defense, with the President being given the option of spending the funds on either missile defense programs or on combating terrorism. It was not my preference that the cut be restored, but I agree with the Senate's unanimous sentiment that these funds be used for the urgent priority of combating terrorism, and my strong hope is that the President will not disregard the will of the Senate and use these funds for missile defense instead.

I have long been a critic of Ballistic Missile Defense, BMD, and I still have strong reservations about the feasibility, cost, and rationale for such a system. The last time I addressed missile defense on the Senate floor was on September 25, exactly two weeks after terrorists destroyed the World Trade Center. I argued then that pressing ahead on BMD would make the U.S. less rather than more secure. Instead, I suggested the Senate give homeland defense the high priority it deserves by transferring funds to it from missile defense programs.

Given the justifiable concerns of Americans about possible terrorist attacks on U.S. nuclear facilities, it makes more sense to use the funds to protect our citizens against a priority threat rather than to counter a low priority threat with a very costly system that a number of informed scientists believe may never work.

Under Chairman LEVIN's leadership, the committee eased the effects of the administration's April decision to provide emergency funding for only 7 percent of Energy Secretary Abraham's request for $398 million to improve security of nuclear weapons and waste. In a letter sent by Secretary Abraham to OMB Director Mitchell Daniels obtained by the New York Times, the Secretary stressed that the $398 million he was requesting was ''a critical down payment to the safety and security of our nation and its people.'' I couldn't agree more. But the administration obviously didn't agree and approved only $26 million.

The April 23rd New York Times article on the matter made clear that the programs covered by the DOE request are vital to the protection of the United States from terrorist attack. Unbelievably, funding was turned down for several programs designed to safeguard nuclear weapons and weapons material in storage, including: $41 million to reduce the number of places where weapons-grade plutonium and uranium were stored; $12 million to detect explosives in packages and vehicles at DOE sites; $13 million to improve perimeter barriers and fences; $30 million to improve DOE computers, including the ability to communicate critical cyber-threat and incident information; and $34 million for increasing security at DOE laboratories.

Who can argue that BMD funding for programs that can't be justified by DOD or are duplicative should take priority over programs designed to deter terrorist actions against U.S. nuclear weapons, weapons materials, and weapons laboratories? Just a few days ago, reports of possible terrorist use of a dirty bomb against the United States caused widespread public alarm. I am sure the American people would be

even more alarmed by a threatened terrorist attack against DOE nuclear facilities.

An attack by ballistic missiles is one of the least likely threats we face. Much more probable threats which a missile defense won't address are nuclear, biological or chemical attacks using planes, boats, trucks or suitcases. And as we are all aware even an impenetrable missile defense would have been useless against the assault on the World Trade Center. In short, I remain convinced that a national missile defense would be ineffective in preventing attacks by rogue states or terrorists.

While the intelligence community continues to devote considerable resources to estimating both the threat of an ICBM and unconventional attack on the United States, it still finds that unconventional attacks are the more likely of the two. For example, recent testimony by the National Intelligence Officer, NIO, for Strategic and Nuclear Programs, before a subcommittee of the Senate Governmental Affairs Committee repeated previous intelligence community judgments that U.S. territory is more likely to be struck by non-missile means of delivering weapons of mass destruction, WMD, than by ICBM's. His remarks were based on an unclassified version of a National Intelligence Estimate, NIE, that was released in January entitled: ''Foreign Missile Developments and the Ballistic Missile Threat Through 2015.'' NIE's represent the collective judgment of the U.S. intelligence community.

In testifying on why using non-missile means of delivering WMD's are the more likely option, the NIO adduced reasons similar to those cited before by other intelligence sources. Compared to ICBM'S, he said, non-missile means are ''less costly, easier to acquire, and more reliable and adequate . . . and also can be used with attribution.''

The NIO meant by this that non-missile means have the advantage of being used without imperiling those responsible, while ICBM's have ''signatures'' enabling the U.S. to quickly identify the attackers. Consequently, countries like North Korea, Iran, and Iraq which he said could be capable of launching missiles at the U.S. by 2015, would be risking a devastating counterattack by the United States. The key question of why these countries would risk destruction by firing an ICBM at us, when non-missiles can be used without a return address has yet to be revealed by intelligence or defense sources. North Korean, Iraqi, and Iranian leaders are evil, but they aren't suicidal.

The NIO noted some states armed with missiles have shown ''a willingness to use chemical weapons with other delivery means,'' adding that U.S. territory is more likely to be attacked with non-missile WMD by terrorists. He concluded the intelligence community believes that the U.S. will face a growing missile threat because missiles have become important regional weapons for numerous countries and provide a level of prestige, coercive diplomacy and deterrence unmatched by non-missile means.

But this thesis has been ably refuted by Joseph Cirincione, head of the Carnegie Endowment's Nuclear Proliferation Program. In a February speech before the American Association for the Advancement of Science he argued that the U.S. is facing a declining ballistic missile threat rather than the increasing threat the intelligence community sees.

Cirincione focuses on the 1998 Rumsfeld Commission study which assessed the ballistic missile threat to the United States and took a much more alarmist view than intelligence assessments that had examined the same issue. The Rumsfeld Commission found that North Korea and Iran were devoting ''extraordinary resources'' to developing ballistic missiles capabilities that pose ''a substantial and immediate danger to the U.S., its vital interests and its allies.''

The Rumsfeld Commission report was an outgrowth of harsh attacks by several leading members of Congress on 1993 and 1995 NIE's. The 1993 NIE concluded that only China and several states of the former Soviet Union had the capability to attack the continental U.S. with land-based ballistic missiles, adding that ''. . . the probability is low that any other country will acquire this capability during the next 15 years.'' In a similar vein, the 1995 NIE, said: ''The Intelligence Community judges that in the next 15 years no country other than the major declared nuclear powers [i.e. Russia and China] will develop a ballistic missile that could threaten the contiguous 48 states or Canada.''

In the aftermath of harsh congressional criticism of the estimates, a congressionally mandated panel in December 1996 led by former Bush Administration CIA Director Robert Gates reviewed the 1995 NIE. The panel concurred with the NIE, finding that it was unlikely the continental U.S. would face an ICBM threat from a third world country before 2010 ''even taking into account the acquisition of foreign hardware and technical assistance, and that case is even stronger than was presented in the estimate.''

Apparently displeased by the Gates panel report as much as they were by the 1995 NIE, Congress mandated the Rumsfeld Commission panel which finally provided a different answer. The 1998 Commission report concluded that a new nation could plausibly field an ICBM ''with little or no warning.'' In the aftermath, the intelligence community adopted the ''could standard'' which became apparent in the 1999 NIE. That consensus report contained the following dissent from one of the intelligence agencies involved in producing the NIE: Some analysts believe that the prominence given to missiles countries ''could'' develop gives more credence than is warranted to developments that may prove implausible.

The ''could'' standard was one of three major changes made to assessment methodology. The other shifts were to substantially reduce the range of missiles considered serious threats by shifting from threats to 48 continental States to threats to any of the land mass of the 50 States and changing the time line from when a country would first deploy a long-range missile to when a country could first test a long-range missile. The geographic criterion change had the effect of shortening missile range by some 3,000 miles, the distance from Seattle to the western-most tip of Alaska's Aleutian Islands. In effect, this means the North Korea's medium-range ballistic missile the Taepodong-1 could be considered the same threat as an ICBM. The time line shift represents a decrease of five years, which previous estimates said was the difference between first test and likely deployment. Moreover, the new NIE's don't require a successful test.

The net effect of these three changes was to shift the goal posts in the direction indicated by the Rumsfeld Commission. These shifts account for almost all of the differences between the 1999 and 2001 NIE's and earlier estimates. Rather than representing some new, dramatic increase in the ballistic missile threat, they represent lowered standards for judging the threat.

Despite administration optimism about developing BMD and the prospects for quick deployment, prominent scientists and missile experts remain skeptical. Here are a few examples. Richard Garwin of the Council on Foreign Relations, a member of the Rumsfeld Commission, and a leading expert in military applications of science, is dubious about the administration's approach to BMD and its rationale for pursuing it.

A report in the Dallas Morning News quotes Garwin as questioning the emphasis on destroying missiles in mid-course, warning ''it's not a sensible thing to do.'' He says the major flaw is that an enemy can defeat the system by such means as concealing the payload bomb in a balloon the size of a house so that hitting the balloon would have little chance of disabling the weapon. Deploying numerous, sophisticated decoys would also be an effective counter-measure.

Garwin suspects DOD money is going to the mid-course approach because its proponents aren't really hoping to use BMD against rogue states as they claim, but are aiming at ''China first, then Russia.'' He reasons that while ships or land-based launch sites would be suitable for shooting down Iraqi or North Korean missiles in boost-phase, they would be useless against Russia and China. A mid-course strategy, however, could counter a limited missile attack from those nations. The implications are chilling. I hope and pray that Garwin is wrong about BMD's true mission, because if Russia and China reach the same conclusion, we may be in for a renewed nuclear arms race.

Dr. Garwin now questions the rationale for BMD, despite his participation in the Rumsfeld Commission which assessed the ballistic missile threat to the United States. He was quoted in a June 12 news wire report as stating: ''Fifteen million . . . cargo containers enter the United States every year with a minute chance of being inspected. Why should a nation with a few ICBM's risk their being destroyed pre-emptively when other means are available for delivery?''

Steven Weinberg, a Nobel Laureate in physics, is one of the most prominent and trenchant scientific critics of BMD. He strongly believes that it would be smarter to put the billions pouring into missile defense into other homeland security efforts. Weinberg points out that if the U.S. deploys BMD, intelligence analysts estimate China will sharply expand its arsenal from about 20 ICBM's to 200 or so. Should this occur both India and Pakistan would probably also expand their nuclear arsenals. As we all know, the last thing the world needs is a spiraling nuclear arms race in South Asia.

Weinberg believes a BMD system would be fatally flawed. He contends that missile defenses are easy to defeat. The attacker surrounding his warheads with decoys, he says always has the last move. He makes a persuasive case that a ballistic missile attack on the United States is an unlikely threat. The real danger we face, he says, is the spread of nuclear material that can be set off without missiles. He concludes that President Bush is pursuing ''a missile defense undertaken for its own sake, rather than any application it may have in defending our own country.'' While I doubt this is an accurate characterization of the President's motives, I agree with Weinberg's conclusion that the spread of nuclear materials is now a much more serious threat to our country than a ballistic missile attack.

Both distinguished missile experts and the media have opposed the Administration's new secrecy policy which will classify previously unclassified materials regarding targets and countermeasures to be used in flight intercept test of the Ground-Based Mid-course Defense system.

Such secrecy is both undesirable and unnecessary. BMD development has benefitted much from public scrutiny by physicists and other scientists, weapons experts, watchdog groups, and the press. Cutting off access would be clearly counterproductive. Philip Coyle, who served as Assistant Secretary of Defense and DOD's Director of Operational Test and Evaluation from 1994–2001 is one of the nation's foremost experts on missile defense. He argues that it will take some 20 developmental tests costing $100 million a piece and may take years before testing with realistic decoys can start. Coyle believes secrecy is premature since there's ''no danger'' the test program will be in a position to ''give away any secrets'' for years to come.

Coyle also is dismayed that MDA is withholding information from the Pentagon's own independent review offices, such as the Director of Operational Test and Evaluation. Current laws give the Director rights to unfettered access to all major DOD acquisition programs. Who can argue with Coyle when he says that if independent review of testing is stifled DOD itself won't be able ''to make reasonable judgements about the program's viability.''

The final issue I want to raise is the matter of the adequacy of current testing. Two years ago I joined Senator DURBIN in introducing an amendment to require more realistic testing of the national missile defense system. At the time I stated on the floor that missile defense testing used at that time proved little or nothing: ''Current testing determines whether or not the system works against cooperative targets on a test range. This methodology is insufficient to determine the technological feasibility of the system against likely threats. At present, even if the tests had been hailed as total successes, they would have proved nothing more than the system is unproven against real threats. . . . Current testing does not take countermeasures into account.''

Unfortunately, what I said was true 2 years ago is still true today. Philip Coyle has recently said that the missile defense program ''is not at the point where the types of decoys being used have even begun to be representative of the likely enemy countermeasures against missile defense.'' He noted that so far the decoys used have been ''round balloons which don't look at all like a target re-entry vehicle.'' Coyle who may know more about BMD testing than anyone, concluded ''it may be the end of this decade before . . . testing with 'real world decoys' can begin.''

The administration plans to rush a rudimentary missile defense system into the field beginning in 2004. Few scientists believe that it will be an effective system. Dr. David Wright, Senior Scientist, Union of Concerned Scientists and an MIT research physicist recently charged that ''rather than waiting until the technical issues are addressed, it is rushing [to deploy] immature defense systems. . . . These systems will not provide 'emergency capability' against real-world threats, only the illusion of capability.'' I couldn't agree more with Dr. Wright.

I still agree with the U.S. intelligence community, noted scientists and missile experts that ballistic missiles are one of the least likely threats we face. Much more probably threats are WMD attacks using planes, boats, trucks, or suitcases. Eminent scientists are skeptical of Administration optimism about prospects for developing and quickly deploying BMD. I fully share their skepticism.

The new DOD secrecy policy which will classify previously unclassified material regarding targets and countermeasure used in BMD is undesirable and indefensible. I strongly oppose MDA withholding information from the Pentagon's own independent review offices and applaud the Committee bill for requiring these offices to provide Congress and DOD with annual assessments of the military utility and potential operational effectiveness of major missile defense programs.

In conclusion, I believe in maintaining a strong national defense. We face a number of credible threats in the world today, including terrorism and the proliferation of weapons of mass destruction. We must make sure we carefully identify the threats we face and tailor our defense spending to meet them. We could do a better job of that than this bill does, and I hope that as we move to conference, the committee will make every effort to transfer funds from relatively low-priority programs to those designed to meet the urgent and immediate anti-terrorism and defense of our forces.

Mrs. CARNAHAN. Mr. President, I am very pleased that the Senate has agreed to accept an amendment to the Defense Department authorization bill which will protect small businesses that contract with our armed forces. I thank Senator KERRY for his leadership on this issue. I am proud to have worked with him on this amendment, on behalf of the men and women who are living the American dream by starting and growing their own businesses.

The amendment that I cosponsored with Senator KERRY is very simple. It seeks to preserve opportunities for small businesses across the country to contract with the United States Army to provide goods and services for our soldiers. The Secretary of the Army recently developed a plan to consolidate procurement contracts. Our amendment requires the Secretary to report to Congress on the effect that this consolidation plan has on the participation of small businesses in Army procurement.

I share the Secretary's goal of getting the most for taxpayers' money. And I want to ensure that our procurement policies are efficient. But I believe that the best procurement policies enable all businesses, large and small, to compete for contracts. After all, any economist will tell you that competition will drive prices down and quality up. When the Government consolidates many contracts into one enormous, unwieldy contract, it is nearly impossible for small or local businesses to compete.

I have met with many small business owners from Missouri who have told me that they are anxious to provide quality goods and services to our military; but too often their businesses have been unable to compete because we have bundled together so many diverse procurement needs into one contract that only very large corporations have the capacity to fill the entire contract. Such a system does not benefit our military or our taxpayers.

I am a cosponsor of the Small Business Federal Contractor Safeguard Act, S. 2466. This legislation addresses the problem of consolidated or bundled contracts. Of course, the Government should do all it can to take advantage of economies of scale in production or other benefits that can result from a large contract with a single supplier. Nothing in our legislation would prevent large contracts that serve a genuine economic purpose. However, I am concerned that too often contracts are bundled together simply for the sake of bureaucratic efficiency. This is a disservice to us all, and I am hopeful that the Senate will soon act on S. 2466.

I am concerned that the Army's decision to proactively consolidate contracts is a step in the wrong direction. The Army has assured me that they have considered the interests of small businesses. Our amendment simply asks the Army to report back to Congress on their progress as they reform their procurement policies. I hope that the report will be filled with good news. I hope that we will learn of the Army exceeding small business participation goals. I look forward to reading such a report. But I believe that it is imperative that we follow this issue closely. We must ensure that our military is prepared to take full advantage of the tremendous opportunities available from contracting with small businesses across the country.

I thank my colleagues for joining me in asking that the Secretary of the Army provide us with this important report.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have spoken to the two managers, staffs on both sides. It appears it would be better to vote now on final passage of this most important bill. I should alert all Members that later this afternoon, when Secretary Rumsfeld's briefing is completed, we will have another vote on a resolution dealing with the Pledge of Allegiance.

The PRESIDING OFFICER. The Senator from Arizona?

Mr. KYL. Would the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Would it be possible to lock in the vote at 3:15? I am sorry.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I would like to express my profound appreciation to the distinguished Senator from Michigan for his able assistance. We have worked together, this is our 24th year on bills of this matter.

Again, I think we have achieved a bill which is in the best interest of the country. I thank you, sir. I thank all members of the Armed Services Committee. I thank all staff persons on the Armed Services Committee, particularly my able assistant, the chief of staff on the Republican side, Ms. Ansley, and her counterpart—maybe the word ''counterpart'' is a little soft—her partner, David Lyles.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me thank my ranking member. I can't imagine having someone to work with who is better than Senator WARNER. This has been a long relationship and a trusting relationship. It makes all the difference in getting legislation addressed, much less passed in this body.

I thank my staff, David Lyles, and crew, Judy Ansley and her staff, who, again, worked in a bipartisan way to make this bill happen, to make it possible for us to pass it. I think this is almost record time. This is only the second time in the last 10 years, I believe, where we have been able to pass the Defense authorization bill prior to July 1.

We have resolved our differences in a way which has contributed to the security of the Nation. We have had our disagreements. We are here to have disagreements, to try to resolve them, and where we can't resolve them by compromise, to have votes. That is what we have done. We again succeeded.

I also thank our majority leader, Senator DASCHLE. I thank Senator LOTT, Senator NICKLES, and particularly, I single out, to his embarrassment, again, Senator REID of Nevada. He makes the wheels run on this floor. He provides the oil and the grease which makes it possible for the wheels of this little buggy of ours to keep going. Without him, I can't imagine how we would be able to function as efficiently as we do with all of the inefficiencies to which we all know the Senate is subjected.

Mr. WARNER. I join my colleague in thanking our distinguished majority leader and Republican leader, who worked hand in hand with us, and, indeed, the majority whip. I would only revise one thing about the majority whip: He does use, as he drives the buggy, the whip. But he uses it judiciously and fairly. I received a little crack this morning myself, as did one other colleague from the other side. It was equal.

At any rate, he succeeded, and I thank my dear friend. I have the utmost admiration for him.

The PRESIDING OFFICER. The deputy majority leader.

Mr. REID. Mr. President, working with these two experienced veterans, competent legislators has been a pleasure.

UNANIMOUS CONSENT AGREEMENT—S. 2690

Mr. REID. Mr. President, I also ask unanimous consent that immediately, following the vote on passage of the DOD bill, the Senate proceed to consideration of S. 2690, introduced earlier today by Senator HUTCHINSON and others, which reaffirms the reference to one nation under God in the Pledge of Allegiance; further, I ask the bill then be immediately read the third time, and the Senate proceed to a vote on passage of the bill with no intervening action or debate at 3:20 p.m. today.

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

Mr. REID. I ask for the yeas and nays on passage of S. 2690.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, I ask unanimous consent that rule XII, paragraph 4, be waived in relation to the Defense authorization bill.

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

Mr. REID. I ask for the yeas and nays on final passage of S. 2514.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. REID. Mr. President, I ask that S. 2514 be read the third time, and the Senate then vote on passage of S. 2514 without any intervening action or debate.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for the third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

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

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—97

Akaka	Dodd	Levin
Allard	Domenici	Lieberman
Allen	Dorgan	Lincoln
Baucus	Durbin	Lott
Bayh	Edwards	Lugar
Bennett	Ensign	McCain
Biden	Enzi	McConnell
Bingaman	Feinstein	Mikulski
Bond	Fitzgerald	Miller
Boxer	Frist	Murkowski
Breaux	Graham	Murray
Brownback	Gramm	Nelson (FL)
Bunning	Grassley	Nelson (NE)
Burns	Gregg	Nickles
Campbell	Hagel	Reed
Cantwell	Harkin	Reid
Carnahan	Hatch	Roberts
Carper	Hollings	Rockefeller
Chafee	Hutchinson	Santorum
Cleland	Hutchison	Sarbanes
Clinton	Inhofe	Schumer
Cochran	Inouye	Sessions
Collins	Jeffords	Shelby
Conrad	Johnson	Smith (NH)
Corzine	Kennedy	Smith (OR)
Craig	Kerry	Snowe
Crapo	Kohl	Specter
Daschle	Kyl	Stabenow
Dayton	Landrieu	Stevens
DeWine	Leahy	Thomas

Thompson	Voinovich	Wyden
Thurmond	Warner	
Torricelli	Wellstone	

NAYS—2

Byrd Feingold

NOT VOTING—1

Helms

The bill (S. 2514), as amended, was passed.

The PRESIDING OFFICER. The provisions of the order will be executed.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

The bill (S. 2515) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

(The bill will be printed in a future edition of the RECORD.)

MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 2003

The bill (S. 2516) to authorize appropriations for fiscal year 2003 for military construction, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

(The bill will be printed in a future edition of the RECORD.)

DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 2003

The bill (S. 2517) to authorize appropriations for fiscal year 2003 for defense activities of the Department of Energy, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. REID. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of Calendar No. 379, H.R. 4546, the House companion measure; that all after the enacting clause be stricken and the text of S. 2514, as passed by the Senate, be inserted in lieu thereof; that the bill be read a third time, passed and the motion to reconsider be laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, with the above occurring without further intervening action or debate.

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

The bill (H.R. 4546), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER (Mr. CARPER) appointed Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LIEBERMAN, Mr. CLELAND, Ms. LANDRIEU, Mr. REED, Mr. AKAKA, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mrs. CARNAHAN, Mr. DAYTON, Mr. BINGAMAN, Mr. WARNER, Mr. THURMOND, Mr. MCCAIN, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. SANTORUM, Mr. ROBERTS, Mr. ALLARD, Mr. HUTCHINSON, Mr. SESSIONS, Ms. COLLINS, and Mr. BUNNING conferees on the part of the Senate.

PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF BOTH HOUSES OF CONGRESS

Mr. DASCHLE. I ask unanimous consent that the Senate proceed to the immediate consideration of the adjournment resolution, that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table without intervening action or debate.

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

The concurrent resolution (S. Con. Res. 125) was agreed to, as follows:

S. CON. RES. 125

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, June 27, 2002, or Friday, June 28, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Monday, July 8, 2002, or until such other time on that day as may be specified in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, June 27, 2002, Friday, June 28, 2002, or Saturday, June 29, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Monday, July 8, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

MORNING BUSINESS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business until the hour of 3:20 p.m., when I understand the next vote will occur.

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

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Arkansas.

TO REAFFIRM THE REFERENCE TO ONE NATION UNDER GOD IN THE PLEDGE OF ALLEGIANCE

The PRESIDING OFFICER. Under a previous order, the Senate will proceed to the consideration of S. 2690.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

The bill (S. 2690) to reaffirm the reference to ''One Nation Under God'' in the Pledge of Allegiance bill.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. At 3:20 this afternoon we will vote on a piece of legislation I introduced to reaffirm Congress' commitment to the Pledge of Allegiance and our national motto ''In God we trust.'' I hope my colleagues will join me in this reaffirmation. Many already have.

I ask unanimous consent the list of 32 Senators as original cosponsors be printed in the RECORD.

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

ORIGINAL COSPONSORS OF S. 2690

Mr. Sessions, Mr. Lott, Mr. Nichols, Mr. Burns, Ms. Collins, Mrs. Hutchison, Mr. Helms, Mr. Inhoff.

Mr. Campbell, Mr. Roberts, Mr. DeWine, Mr. McConnell, Mr. Shelby, Mr. Bennett, Mr. Stevens, Mr. Voinovich.

Mr. Phil Gramm, Mr. George Allen, Mr. Ensign, Mr. Bob Smith, Mr. Bunning, Mr. Enzi, Mr. Hagel, Mr. Lugar.

Mr. Bond, Mr. Murkowski, Mr. Craig, Mr. Thomas, Mr. Crapo, Mr. Brownback, Mr. Domenici, Mr. Kyl, Mr. Zell Miller.

Mr. HUTCHINSON. Yesterday's decision by the Ninth Circuit Court of Appeals in Newdow v. U.S. Congress was, in a word, outrageous. It is inexplicable that this man so seriously objected to his daughter having to listen and watch others recite the pledge at their school. Keep in mind, in this country no one can be forced to recite the Pledge of Allegiance. It is simply a matter of respect.

It is appalling that this court took the time and judicial resources to resuscitate this case which the district court had already dismissed for failing to state a claim. This complaint was a mess. The plaintiff, Dr. Newdow, who represented himself, asked a Federal court to order the President to change a law. The court took great pains to find a claim in Mr. Newdow's complaint and then to rule in his favor.

He did this at a time when Federal judicial resources are very strained. The Nation is trying to function in the speedy manner required by the sixth amendment, with 89 judicial vacancies, a staggering number, representing 10 percent of the Federal judiciary.

According to the Judicial Conference, in the past three decades, a U.S. Courts of Appeals judges' average caseload increased by nearly 200 percent. In light of these strained resources, it is appalling to me that the court took time to resuscitate this very flawed case.

The Pledge of Allegiance plays a very important part in the citizenship experience of every American. It is part of the patriotic thread that weaves us all together in times of crisis and times of celebration.

If the ninth circuit's interpretation of the establishment clause stands, many national ceremonies and celebrations will be negatively impacted. Singing of songs with references to God on government property will be prohibited. For example, songs such as ''Star Spangled Banner,'' ''God Bless America,'' and ''America the Beautiful,'' which Americans sing every Fourth of July on the steps of this building. But such references are not just important in ties of celebration. On September 11 we stood on the steps of the Capitol and sang ''God Bless America.'' Countless Americans uttered the phrase ''God Bless America'' and prayed together in public spaces. This ruling could prohibit that.

Judge Ferdinand Fernandez wisely dissented from this decision. His words have been quoted before. He said it beautifully. Such phrases as ''In God we trust'' or ''under God'' have no tendency to establish a religion in this country or to suppress anyone's exercise or nonexercise of religion. He went on, in eloquent terms, and defends his dissent.

I believe this ruling will be soundly rejected. I was so pleased that yesterday the majority leader and the minority leader moved the Senate very quickly in expressing its disapproval immediately following the ruling yesterday. The Ninth Circuit is not unfamiliar with going out on a limb, and the Supreme Court is not unfamiliar with striking it down. This circuit is the most overturned circuit in the country.

There is certainly nothing wrong with pushing the envelope and using an original interpretation on novel issues of law, but this court repeatedly makes rulings which countervail standing precedent. Instead of administering justice, it seems some judges in the ninth circuit are far more interested in making social policy statements. It is not what the Constitution asks them to do and it is not what the American people pay them for.

The first amendment prohibits Congress from passing any law establishing a religion. Coming as they did from a land with an established religion where those of other faiths were not well tolerated, they set the highest value on freedom of religion. But they were not advocating freedom from religion.

By passing this legislation today the Senate will make clear that we understand the Founders' intention. We will reiterate our support for the Pledge of Allegiance as codified and our national motto, ''In God we trust.''

Finally, I commend the Judiciary Committee today in voting out the nomination of Lavenski Smith to the Eighth Circuit Court of Appeals. Lavenski Smith, who is from the State of Arkansas will make an outstanding jurist on the Federal bench. He is supremely well qualified as a former member of the Arkansas Supreme Court. He understands the proper role of the judiciary.

I applaud the committee's unanimous vote today. I believe if we did not have the vacancies on the Federal bench to the extent that we now have them, the decision from the Ninth Circuit would not have occurred. In Judge Smith's confirmation hearings last month, he expressed his unshakable respect for an adherence to precedent. He said even when it goes against his personal beliefs, he would follow precedence. Clearly, we need people like Lavenski Smith on the bench.

I am pleased that the Judiciary Committee has taken this step. I am also pleased that the Senate will, today, make clear to the Federal judiciary, our reaffirmation of our Pledge of Allegiance and our national motto ''In God we trust.''

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. HUTCHINSON. Madam President, I ask unanimous consent that Senator ZELL MILLER be added as an original cosponsor on the bill on which we are about to vote.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. SESSIONS. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Mr. SESSIONS. Madam President, I would like to speak in support of the legislation proposed by Senator HUTCHINSON from Arkansas. I am a cosponsor and helped draft this legislation. I would say this: This is not an ittybitty issue. This is a big issue. The Congress and States and cities have been expressing a desire to have, and be allowed to have, an expression of faith in the public life of America. The courts have been on a trend for decades now to constrict that.

The opinion out of the Ninth Circuit is not as aberrational as some would think. The Supreme Court, in my view, has been inconsistent and unclear. It has cracked down on some very small instances of public expression of faith. Our courts have made decisions such as constraining a valedictorian's address at a high school. Certainly our prayer in schools has been rigorously constricted or eliminated in any kind of normal classroom setting, as has the prayer at football games.

I will just say we hope the courts will reconsider some of their interpretations of the establishment clause and the free exercise clause of the first amendment and help heal the hurt in this country.

The PRESIDING OFFICER. The hour of 3:20 has arrived.

Mr. DASCHLE. Madam President, I wish to announce this will be a final rollcall vote of the day and the week. Our next rollcall vote will occur Tuesday morning following the July Fourth recess. Senators should be on notice that we will have a vote that morning and votes throughout the day and the week.

I yield the floor.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—99

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchinson	Sessions
Carper	Hutchison	Shelby
Chafee	Inhofe	Smith (NH)
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden

NOT VOTING—1

Helms

The bill (S. 2690) was passed, as follows:

S. 2690

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

SECTION 1. FINDINGS.

Congress finds the following:

(1) On November 11, 1620, prior to embarking for the shores of America, the Pilgrims signed the Mayflower Compact that declared: ''Having undertaken, for the Glory of God and the advancement of the Christian Faith and honor of our King and country, a voyage to plant the first colony in the northern parts of Virginia,''.

(2) On July 4, 1776, America's Founding Fathers, after appealing to the ''Laws of Nature, and of Nature's God'' to justify their separation from Great Britain, then declared: ''We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness''.

(3) In 1781, Thomas Jefferson, the author of the Declaration of Independence and later the Nation's third President, in his work titled ''Notes on the State of Virginia'' wrote: ''God who gave us life gave us liberty. And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the Gift of God. That they are not to be violated but with His wrath? Indeed, I tremble for my country when I reflect that God is just; that his justice cannot sleep forever.''.

(4) On May 14, 1787, George Washington, as President of the Constitutional Convention, rose to admonish and exhort the delegates and declared: ''If to please the people we offer what we ourselves disapprove, how can we afterward defend our work? Let us raise a standard to which the wise and the honest can repair; the event is in the hand of God!''.

(5) On July 21, 1789, on the same day that it approved the Establishment Clause concerning religion, the First Congress of the United States also passed the Northwest Ordinance, providing for a territorial government for lands northwest of the Ohio River, which declared: ''Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.''.

(6) On September 25, 1789, the First Congress unanimously approved a resolution calling on President George Washington to proclaim a National Day of Thanksgiving for the people of the United States by declaring, ''a day of public thanksgiving and prayer, to be observed by acknowledging, with grateful hearts, the many signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a constitution of government for their safety and happiness.''.

(7) On November 19, 1863, President Abraham Lincoln delivered his Gettysburg Address on the site of the battle and declared: ''It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this Nation, under God, shall have a new birth of freedom—and that Government of the people, by the people, for the people, shall not perish from the earth.''.

(8) On April 28, 1952, in the decision of the Supreme Court of the United States in *Zorach v. Clauson*, 343 U.S. 306 (1952), in which school children were allowed to be excused from public schools for religious observances and education, Justice William O. Douglas, in writing for the Court stated: ''The First Amendment, however, does not say that in every and all respects there shall be a separation of Church and State. Rather, it studiously defines the manner, the specific ways, in which there shall be no concern or union or dependency one on the other. That is the common sense of the matter. Otherwise the State and religion would be aliens to each other—hostile, suspicious, and even unfriendly. Churches could not be required to pay even property taxes. Municipalities would not be permitted to render police or fire protection to religious groups. Policemen who helped parishioners into their places of worship would violate the Constitution. Prayers in our legislative halls; the appeals to the Almighty in the messages of the Chief Executive; the proclamations making Thanksgiving Day a holiday; 'so help me God' in our courtroom oaths—these and all other references to the Almighty that run through our laws, our public rituals, our ceremonies would be flouting the First Amendment. A fastidious atheist or agnostic could even object to the supplication with which the Court opens each session: 'God save the United States and this Honorable Court.' ''.

(9) On June 15, 1954, Congress passed and President Eisenhower signed into law a statute amending the Pledge of Allegiance to read: ''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.''.

(10) On July 20, 1956, Congress proclaimed that the national motto of the United States is ''In God We Trust'', and that motto is inscribed above the main door of the Senate, behind the Chair of the Speaker of the House of Representatives, and on the currency of the United States.

(11) On June 17, 1963, in the decision of the Supreme Court of the United States in *Abington School District v. Schempp*, 374 U.S. 203 (1963), in which compulsory school prayer was held unconstitutional, Justices Goldberg and Harlan, concurring in the decision, stated: ''But untutored devotion to the concept of neutrality can lead to invocation or approval of results which partake not simply of that noninterference and noninvolvement with the religious which the Constitution commands, but of a brooding and pervasive devotion to the secular and a passive, or even active, hostility to the religious. Such results are not only not compelled by the Constitution, but, it seems to me, are prohibited by it. Neither government nor this Court can or should ignore the significance of the fact that a vast portion of our people believe in and worship God and that many of our legal, political, and personal values derive historically from religious teachings. Government must inevitably take cognizance of the existence of religion and, indeed, under certain circumstances the First Amendment may require that it do so.''.

(12) On March 5, 1984, in the decision of the Supreme Court of the United States in *Lynch v. Donelly*, 465 U.S. 668 (1984), in which a city government's display of a nativity scene was held to be constitutional, Chief Justice Burger, writing for the Court, stated: ''There is an unbroken history of official acknowledgment by all three branches of government of the role of religion in American life from at least 1789. . . [E]xamples of reference to our religious heritage are found in the statutorily prescribed national motto 'In God We Trust' (36 U.S.C. 186), which Congress and the President mandated for our currency, see (31 U.S.C. 5112(d)(1) (1982 ed.)), and in the language 'One Nation under God', as part of the Pledge of Allegiance to the American flag. That pledge is recited by many thousands of public school children—and adults—every year... Art galleries supported by public revenues display religious paintings of the 15th and 16th centuries, predominantly inspired by one religious faith. The National Gallery in Washington, maintained with Government support, for example, has long exhibited masterpieces with religious messages, notably the Last Supper, and paintings depicting the Birth of Christ, the Crucifixion, and the Resurrection, among many others with explicit Christian themes and messages. The very chamber in which oral arguments on this case were heard is decorated with a notable and permanent—not seasonal—symbol of religion: Moses with the Ten Commandments. Congress has long provided chapels in the Capitol for religious worship and meditation.''.

(13) On June 4, 1985, in the decision of the Supreme Court of the United States in *Wallace v. Jaffree*, 472 U.S. 38 (1985), in which a mandatory moment of silence to be used for meditation or voluntary prayer was held unconstitutional, Justice O'Connor, concurring in the judgment and addressing the contention that the Court's holding would render the Pledge of Allegiance unconstitutional because Congress amended it in 1954 to add the words ''under God,'' stated ''In my view, the words 'under God' in the Pledge, as codified at (36 U.S.C. 172), serve as an acknowledgment of religion with 'the legitimate secular purposes of solemnizing public occasions, [and] expressing confidence in the future.' ''.

(14) On November 20, 1992, the United States Court of Appeals for the 7th Circuit, in *Sherman v. Community Consolidated School District 21*, 980 F.2d 437 (7th Cir. 1992), held that a school district's policy for voluntary recitation of the Pledge of Allegiance including the words ''under God'' was constitutional.

(15) The 9th Circuit Court of Appeals erroneously held, in *Newdow v. U.S. Congress*, (9th Cir. June 26, 2002) that the Pledge of Allegiance's use of the express religious reference ''under God'' violates the First Amendment to the Constitution, and that, therefore, a school district's policy and practice of teacher-led voluntary recitations of the Pledge of Allegiance is unconstitutional.

(16) The erroneous rationale of the 9th Circuit Court of Appeals in *Newdow* would lead to the absurd result that the Constitution's use of the express religious reference ''Year of our Lord'' in Article VII violates the First Amendment to the Constitution, and that, therefore, a school district's policy and practice of teacher-led voluntary recitations of the Constitution itself would be unconstitutional.

SEC. 2. ONE NATION UNDER GOD.

(a) REAFFIRMATION.—Section 4 of title 4, United States Code, is amended to read as follows:

''§ 4. Pledge of allegiance to the flag; manner of delivery

''The Pledge of Allegiance to the Flag: '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.', should be rendered by standing at attention facing the flag with the right hand over the heart. When not in uniform men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag, and render the military salute.''.

(b) CODIFICATION.—In codifying this subsection, the Office of the Law Revision Council shall make no change in section 4, title 4, United States Code, but shall show in the

historical and statutory notes that the 107th Congress reaffirmed the exact language that has appeared in the Pledge for decades.

SEC. 3. REAFFIRMING THAT GOD REMAINS IN OUR MOTTO.

(a) REAFFIRMATION.—Section 302 of title 36, United States Code, is amended to read as follows:

"§ 302. National motto

" 'In God we trust' is the national motto.".

(b) CODIFICATION.—In codifying this subsection, the Office of the Law Revision Council shall make no change in section 302, title 36, United States Code, but shall show in the historical and statutory notes that the 107th Congress reaffirmed the exact language that has appeared in the Motto for decades.

Mr. DASCHLE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT REQUEST—H.R. 3009

Mr. DASCHLE. Madam President, I ask the Chair to lay before the Senate a message from the House with respect to H.R. 3009.

The PRESIDING OFFICER. The clerk will state the message.

Mr. LOTT. Reserving the right to object, Madam President.

Mr. DASCHLE. I withdraw the request, Madam President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. CAMPBELL. Madam President, I ask unanimous consent to speak for 6 minutes as in morning business.

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

FOREST MANAGEMENT

Mr. CAMPBELL. Madam President, I rise today to talk about forest management, although I am certainly sad it has taken the current catastrophic wildfires out West to get some attention on this issue.

On May 18, before most of the fires had started and were underway, I held a field hearing for the Energy Committee in Golden, CO, to review coordination of firefighting efforts. The four intergovernmental witnesses all expressed serious concern that Colorado's unnaturally dense forests pose serious risk of unnaturally hot burning and unmanageable fires, increasing the danger to both people and property. Unfortunately, that worry became a very real, unimaginable reality for much of the West.

In our State alone just this year, we have had over 350,000 acres burn. As of yesterday, the Hayman fire east of I–25 between Denver and Colorado Springs had burned in excess of 137,000 acres, much of it in the all-important South Platte watershed of the City of Denver.

While the fire is now 70 percent contained, over 1,200 residents are at risk and many lost their homes. In fact, 618 homes and structures burned, and it has cost over $26 million so far in fighting this fire. The Forest Service tells us much of this fire is in an area of diseased and stressed timber, some of which they have been attempting to clean up, but opponents are delaying this needed management through courtroom appeals and litigation.

It is important to note that large parts of the area that has burned are in the areas that were designated as roadless during the Clinton administration, under the Clinton management plan.

We have the Million Fire near the little town of South Fork, CO, near Wolf Creek Pass. That fire is not big by the standards of this summer, but it has already consumed over 8,500 acres, and it is right on the outskirts of the town of South Fork. We have lost 13 homes and buildings in that fire. The resource managers tell us it is burning in an area of spruce and ponderosa pine already killed by insects.

History shows many of proposed salvage sales on the Rio Grande National Forest have also been opposed by opponents of cleaning the forests, and they have had difficulty getting proactive thinning and sanitation harvesting through the NEPA process. The agency tells us that nearly 100 additional homes and commercial buildings are currently threatened and that the town's watershed is also in the line of fire.

Finally, just near where I live in Durango, CO, what is called the Missionary Ridge fire, which I am sure you have seen on CNN and a number of other networks, is 15 miles from the town of Durango, CO—in fact, I can see it from my front porch—and it is burning that way. Ten subdivisions are endangered, over 1,150 residences are being evacuated, and we have lost 71 homes and outbuildings. The municipal watersheds of the towns of Durango and Bayfield are threatened, as well as numerous businesses, radio towers, and homes.

The interesting part of that fire is it is burning mostly in RARE II roadless areas. Last week, when I was home, the fire was only about 2 miles from the city limits of the town of Durango with zero containment and certainly has had a devastating impact on the morale of the community, on the structures, and on tourism, which is the backbone and mainstay of our economy.

All of those fires I have mentioned have really been eclipsed and overshadowed by the huge fire in Arizona in the Coconino National Forest, not far from the White River National Forest.

I am reminded of 1996, when there was an effort by the Forest Service to do some fuels reduction in the Coconino Forest. They were prevented from doing so by an environmental lawsuit under the Endangered Species Act which contended that the fuels reduction would disturb the goshawk, a small hawk. Later that same year, there was a fire that did start in that forest, and it destroyed everything in its path, including the goshawk nests. Now we have almost the same catastrophic fire in the White River National Forest.

Time and again, we hear from Colorado firefighters who are frustrated they can't seem to get ahead of the fires. I submit we cannot seem to get ahead of some of the lawsuits that block our responsible management of the forests, and we won't be able to get any place under control until we do. This year so far, we have had over 300 fires nationwide, and the fire season is just starting.

The science is certain: Thinning forests at natural levels significantly reduces the threat of wildfires. Yet the constant threat of environmental lawsuits has resulted in what has been described by the Forest Service as ''analysis paralysis.'' The Forest Service is now forced to study and assess proposed actions, not for the right reasons, but because of any potential action in the courts, in anticipation of a flurry of lawsuits and appeals by some extreme groups. Dale Bosworth, Chief of the Forest Service, testified before our committee that they are now using over 40 percent of their agency work and a good deal of their resources, about $250 million a year, that could have gone to save lives and property. Instead, they are using it to prepare for court actions against opponents of cleaning the forest.

Environmental groups are proud of that obstruction-through-litigation strategy because every dollar we spend in litigating is one less dollar we spend on managing the forest. They do acknowledge, however, that forests are unnaturally dense.

In Colorado, normally we have 50 trees per acre. But now we see stands of 200, 500, and 800 trees per acre, representing unmanageable fuel loads. Many of these trees are dying from insect infestation, which increases the fire risk. Yet environmentalists still oppose any thinning or removal of dead timber except if it is near homes or around homes. They argue that thinning other parts of the forest grants unnecessary footholds for the ''big, bad'' timber industry that will ravage the landscape. It is interesting that what they completely ignore is that industry thinning on national forests is done under very close scrutiny of the National Environmental Policy Act.

What about lawsuits in the name of animals? On the one hand, environmentalists sue land managers to keep them from thinning because the action might disturb all manner of species. On the other hand, they ignore the complete devastation that catastrophic

fires such as the ones we are experiencing do to the same species.

I spoke to one firefighter last week. He told me that the 150-foot flames in the Mission Ridge fire were traveling so fast and were so intense that birds in flight were actually being burned out of the air. Certainly, most small animals that are land animals have no chance at all. That includes the spotted owl, the red squirrel, Preble's meadow jumping mouse, and hundreds of animals on the endangered species list.

In arguing against thinning, environmentalists also ignore the very real long-term damage that large and intense fires have on soil and watersheds. Over 70 percent of our Nation's water comes from waterbodies in our forests. Yet, these environmental groups would prohibit thinning around watersheds, such as the South Platte project. I would have thought that they would support such efforts, especially after the Buffalo Creek fire of 1996, which cost the city of Denver millions of dollars to restore water quality.

Environmentalists oppose improving the safety of our watersheds because they fear losing the Clinton-era ''roadless rule,'' which provides that no new roads can be built where none exist. Their prized ''roadless rule'' effectively acts as a wilderness designation requiring an act of Congress.

It is ironic that the ''roadless rule'' that environmentalists hold so dear was recently ruled illegal by a Federal judge in Idaho because the public comment period was grossly inadequate, stating, ''Justice hurried on a proposal of this magnitude is Justice denied.''

I am a big supporter of grass roots initiatives—local communities should be involved in land management decisions. Opportunities for public comment and participation are important aspects of environmental law. However, these opportunities are being poisoned by radical groups too interested in legitimizing their own worth to contributors than in collaboratively working for the betterment of our Nation's resources.

Some of these organizations have effectively paralyzed responsible forest management practices, thus contributing to poor forest health. In fact, 73 million acres of national forest are at risk from severe wildland fires. In the West, more than half of the rangeland riparian area on the National Forest System do not meet standards for healthy watersheds, and one in six acres in the Rocky Mountain and Plains states is making no progress toward improvement. All this in the name of environmentalism.

Forest Service Chief Dale Bosworth recently acknowledged that the Hayman Fire near Denver would not have been nearly as severe had forest thinning projects gone forward.

I am unwilling to allow our forest's health and environmental quality to continue deteriorating simply because a minority of environmental organizations have thrown science and good sense out of the window in the name of their own political agenda while completely avoiding the tradgey of the 14 deaths of firefighters from the Storm King Fire of 1994 or the recent loss of five firefighters in a bus wreck while on their way to fight fire in Colorado.

I have seen the negative effect that some environmental organizations have had in the West for a long time. But enough is enough—something has to change. It is unfortunate that it has taken tragic fires like the ones raging out West to get the Nation and the media to acknowledge the same.

I hope, as we move from this Congress to the next, we will look for more positive ways to achieve responsible forest management.

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

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

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Delaware, Mr. CARPER, be recognized for 3 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Delaware is recognized for 3 minutes.

AMTRAK

Mr. CARPER. Mr. President, the attention of a lot of people in the Northwest and in the Midwest and in California has been drawn to the potential shutdown not just of the Amtrak passenger rail service, but commuter rail service in Boston, New York, Philadelphia, Wilmington, Delaware, Chicago, Los Angeles, and a lot of places in between.

Amtrak has sought to negotiate a loan from a consortium of private lenders. Literally in the middle of the negotiation, the administration put on the table its restructuring plan for Amtrak. That plan was, in my view, a ''dismantling'' plan for Amtrak. That was the end of the negotiations with the private lenders, for the most part.

Now Amtrak faces a difficult decision as to when to begin curtailing and shutting down its operations. When they do that, it will have a cascading effect on the operations of many commuter railroads in America as well.

The Secretary of the Department of Transportation, Norman Mineta, was before one of our committees today testifying. Knowing him as an old colleague and somebody who I respect, I think he is in a tough spot. I have not been inside his heart to see what he would want to do in his heart. Given that independence, I think he would favor going ahead with the loan guarantee, or support the Congress in going through and including a $200 million emergency supplemental for Amtrak. The administration, which created this crisis before us, is now still in a very good position to end the crisis, the threat. They can do that by saying, yes, we will provide the full loan guarantee, or we will support the appropriation from the Congress.

Our thanks to the chairman of the Appropriations Committee, Senator BYRD, and Senator STEVENS, the ranking Republican, for their willingness to support $200 million in the emergency supplemental to help us get through this difficult time, and later this fall we will resolve more fully the passenger rail service in this country.

I have said for a long time—and I will say it again today—the problem with passenger rail service in this country is we have never provided adequate capital support for passenger rail service. We need to do that, to find an earmark source of revenue. I hope in the months to come we will debate that and come to a consensus on that point.

I thank the Chair.

UNANIMOUS CONSENT REQUEST—H.R. 3009

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House with respect to H.R. 3009; that the Senate disagree to the House amendment, agree to the request for a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees on behalf of the Senate: three on behalf of the majority and two on behalf of the minority.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, we have had a number of discussions with respect to how many conferees the Senate would want to have involved in this very important conference that will deal with trade issues on which we spent a great deal of time in the Senate, including the Andean trade authority, as well as the overall large trade assistance bill and the Trade Promotion Act—three very important pieces included in this one bill.

As we look at this, I think this is going to be one of the most important conferences we are going to deal with this year.

The House has a small number of conferees to the underlying bill, but they have a number of conferees to different sections to the bill. I suspect there is a total number of House conferees involved that would probably run in the 18 range.

We have members of the Finance Committee who worked very hard on this important legislation, and I had

hoped that we could get an 8-to-7 or 7-to-6 ratio, or at minimum 6 to 5 to accommodate members of the Finance Committee who are on the subcommittee of jurisdiction and who have put a lot of work into this. I have even tried to say: OK, maybe we can make it work at 5 to 4, but we have not been able to get that worked out.

I think for the Senate to be limited to only five conferees on a bill of this magnitude and as complicated as this is, and as many people who worked so hard on it, that it would not be an acceptable arrangement at this time. So I have to object.

The PRESIDING OFFICER. Objection has been heard.

Mr. REID. Mr. President, I am disappointed, but I certainly understand.

UNANIMOUS CONSENT REQUEST—H.R. 7

Mr. REID. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Republican leader, and prior to the August recess, the Senate proceed to the consideration of H.R. 7, the charitable deductions bill, as reported by the Finance Committee, and that it be considered under the following limitation: That there be 4 hours for debate on the bill equally divided between the chairman and ranking member of the Finance Committee; that there be one substitute amendment in order to be offered by the majority leader or his designee; that the debate time shall come from the time on the bill; that upon the disposition of the substitute amendment and the use or yielding back of time, the bill be read a third time and the Senate vote on final passage of the bill, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, this bill has not been filed and the amendment mentioned is a brandnew amendment which was received at 3:10 p.m. today. I really do not have any idea what is contained in this complete substitute, but I do know we would be unable to clear it for consent at this time. We are working right now to get in touch with Senator GRASSLEY and others to make sure they are familiar with this and have had a chance to look over the substitute amendment to make sure there is no problem with it.

I had hoped we had been able to clear this earlier today, and I hope that if we are not going out of session right away, we might even have a chance to come back, if I can get this cleared, later this afternoon. But until I can do a hotline on it and check with the senior member on the Finance Committee about the substitute amendment, I have to object at this time. I emphasize, I think maybe we can clear it before the afternoon is done. I hope we can come back to it.

The PRESIDING OFFICER. Objection has been heard.

Mr. REID. Mr. President, I say to my friend, the distinguished Republican leader, Senator DASCHLE will be here tomorrow and maybe even tomorrow something can be worked out. My understanding is the President wants this badly, and I hope we can work it out.

UNANIMOUS CONSENT REQUEST—S. 1140

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 210, S. 1140; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, I have to say, I have no objection to this legislation. In fact, I am a cosponsor of this legislation. It has been discussed and considered for quite some time now, and with the overwhelming support it has, it should move forward.

However, on behalf of a Senator on my side of the aisle who is now in the Judiciary Committee in a meeting and could not be here at this particular time, I am going to have to object on his behalf, but I do want to say this: I do not agree. I believe this is legislation we should pass, and this is the last time I am going to have anybody on this side of the aisle object on this issue. Any Senator who has further objection is going to have to do it himself. As a courtesy to a Senator who is currently tied up, I do object.

The PRESIDING OFFICER. Objection has been heard.

Mr. REID. Mr. President, I am truly disappointed. People from Nevada and all over the country need this legislation. As the majority leader said, we should work out some way to move this forward. It is too bad one Senator is holding this up.

UNANIMOUS CONSENT REQUEST—S. 1991

Mr. REID. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed to the consideration of Calendar No. 404, S. 1991, the Amtrak authorization bill, at a time to be determined.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Mr. President, again reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. This is legislation we need to consider. It needs to be considered in the full light of day with amendments in order. We did have a full consideration of the bill in the Commerce Committee with amendments offered. Some were adopted and some were rejected. I voted for the legislation.

We need to move forward on the reform of Amtrak. We are in the process of putting additional money in Amtrak right now, and I support both the loan the administration is working out and perhaps additional money in the supplemental.

Having said that, I do note also that we have to make tough choices. Do we want a national rail passenger system or not? If we do, we have to figure out what kind of reforms we can put in place that will save money or provide additional money; what lines are we going to keep open and keep running or not; if and how much we are going to have to pay for it.

If the American people, through their Representatives and Senators, do not want to vote for additional funds, then that is one choice. I spoke passionately on the floor in 1997 when we passed Amtrak reform legislation. I made a commitment on this floor and to the American people that I supported this because I thought it could become self-supporting. I was wrong. I have to admit that. Now the question is, Do we want to continue to have Amtrak or not? I think we should. I still think it is an important mode of transportation we should not sacrifice. But the Congress is going to have to come to terms with reform.

There are some Senators who object to moving to it at this time. I believe specifically Senator MCCAIN has indicated he has an objection to it. So while I do not agree with the objection, I do agree that the timing is such that we would not be able to give it full and appropriate consideration, in view of other issues to which we have already agreed to go. Therefore, I object.

The PRESIDING OFFICER. Objection has been heard.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to executive session for consideration of the following nominations on the calendar: Nos. 810, 825 through 828, 840, 862 through 867, 887 through 889; I further ask that the nominations be confirmed, en bloc; that the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

Before the Chair rules, I wish to indicate this request is with respect to 15 judicial nominations, some of which have been on the calendar since May 2. These are nominations that are pending in the Senate, not in the Judiciary Committee. They are ready for consideration by the entire Senate with only one exception; I know of no objections.

I will be giving a statement with regard to this matter later, but in consideration of Senator REID's and others' time, I thought I would make this unanimous consent request first and make my statement on this matter later.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, as we speak, there are negotiations going on at the White House dealing with a wide range of appointments and nominations. I hope this can be worked out. I was confident a day or two ago that the majority leader and the Republican leader, together with the White House, had worked something out on nominations on which we could move forward, but that did not come to be. We also know there is someone on the other side of the aisle who has asked that we on his behalf object, and I am doing that now. I object.

The PRESIDING OFFICER. The objection has been heard.

The Republican leader.

Mr. LOTT. Mr. President, I understand there may be another unanimous consent request in a moment, but it could lead to some discussion back and forth, so at this time I yield myself leader time so I can address the issue that was just objected to.

The PRESIDING OFFICER. The Senator has that right.

Mr. LOTT. Mr. President, the Senate, the American people, and the House of Representatives have all expressed their outrage at the decision by the Ninth Circuit Court of Appeals yesterday which ruled that the Pledge of Allegiance is unconstitutional because it contains the phrase ''under God.'' People are understandably stunned and find it not only unbelievable, but indefensible.

Senators and the American people are shocked that two Federal circuit judges were capable of making such an absurd decision. The fact that they did points up, once again, how vitally important these Federal judicial appointments are in guiding not only the country's present, but its future as well. Judges are important at every level, but particularly at the appellate court, the circuit court level.

This preposterous decision about the Pledge of Allegiance, which Senators have been outraged about, was handed down by three circuit court judges who voted 2–1 that reciting the Pledge violated the Constitution's Establishment Clause protections.

I should note that the vigorous dissent in the case was filed by Judge Ferdinand Fernandez, who was appointed by the first President Bush, and who went into great detail since echoed by many members of this chamber—as to why the other two judges views and reading of the law are both unfounded and inappropriate.

An interesting fact about these three judges is that two of the three are actually on senior status which means they are not considered active judges and are semi-retired. The fact that semi-retired judges were deciding is an indication in and of itself that there are problems in this circuit court and there are clearly major problems in the Ninth Circuit Court of Appeals.

Mr. President, we have been arguing for years about how the Ninth Circuit should be changed. It is a huge circuit which includes not only Hawaii and California, but Nevada, Arizona, Idaho, Oregon, Washington, and Montana as well. It is not surprising that the states in the circuit also have very different cultural views of the world. Therefore, geographically and ideologically, many Senators encompassed by the Ninth Circuit want it split into at least two, if not three, circuits.

The Ninth Circuit is also by far the court that has been reversed the most by the United States Supreme Court. Indeed, the 9th Circuit decisions that have been reviewed by the Supreme Court have been reversed over 80% of the time over the last 6 years. And these have not been close cases in the Supreme Court either. On average, the Ninth Circuit's decisions have received just two votes from the Supreme Court's nine justices.

Mr. President, I should also point that one of the judges who did decide to hold that the Pledge of Allegiance to the flag is unconstitutional was Stephen Reinhardt. This active judge, who was appointed in the last year of Jimmy Carter's Presidency, holds the record for the most unanimous reversals by the Supreme Court in a single court term—five. He has been reversed a total of 11 times since the court's 1996–1997 term. He has been involved in such infamous, ridiculous decisions as striking down California's ''three strikes and you're out'' criminal law this spring. He has a long record of other extremely unpopular and, in my opinion, inaccurate and unfounded interpretations of the law and/or the Constitution. So, this judge has engaged in a pattern of using his position on the court to become an activist for social change instead of interpreting the law as passed and voted on by Congress or as written by the Nation's Framers.

Twenty-eight active judges are authorized for the Ninth Circuit and five of those seats are vacant. Due to the heavy caseload in the Circuit, all five of those vacancies have been declared judicial emergencies by the Administrative Office of the Courts. President Bush has nominated individuals to fill three of those five vacancies, one from Hawaii who is supported by both of the Democrat Senators from his state has pending on the Executive Calendar since May 16, another from California has been held up in the Committee since June 22nd of last year without even a hearing, and the third from Nevada has been in the Committee for two months.

As we can see from this case that has everyone up in arms, these circuit judges do make a difference, and that is why President Bush's Circuit Court nominees are being held up. He and I agree that we should not be putting judges on the appellate courts who will render decisions such as this. The judgment of such judges really has to be questioned by the vast majority of Americans.

Despite the vacancies and the judicial emergencies on the Ninth Circuit and all the federal circuits, the Senate continues to have a problem confirming judges without undue and unjustifiable delay. There are some 45 judicial nominees pending before the Senate at one level or another. Yet, we have not confirmed one judge since before the Memorial Day Recess.

As I have already noted, as of this morning, there were 15 judges on the Executive Calendar who are ready to go if a few Senators would only let them. Three of the 15 are Circuit Court judges. And there are several circuits around the country that are having real problems handling their caseloads because they do not have enough judges to fill all of their seats—indeed one circuit, the Sixth, has half of its 16 judgeships vacant.

Around the country there are 89 judicial vacancies. Thirty-one are Circuit Court vacancies, 17 of which have been declared judicial emergencies by the Administrative Office of the Courts and the Judiciary Committee is holding 11 nominees President Bush has named to fill those 17 emergencies. There are currently 57 vacancies at the District Court level, 18 of which have been declared judicial emergencies.

I expect we are going to hear arguments back and forth about the numbers, well, it is because you guys did not confirm enough judges during the President Clinton's last 2 years. But whatever the history may have been, we have a problem now with our circuits that must and can be fixed.

Mr. President, another example of how important these judicial appointments can be and what the effect on the nation can be is the decision handed down by the Supreme Court today by a 5–4 vote upholding Cleveland's school voucher program. Frankly, I was amazed it was that close. Again, it points up the importance of even a single judge on the Supreme Court or on a circuit court.

I think that says a lot about the real reasons behind what is going on in the Committee with the President's judicial nominees. There are a number of people in the Senate who say that if the President tries to put a conservative, strict constructionist judge on the Supreme Court who will follow the law and not write it from the bench as the judges did in the Pledge of Allegiance case they are going to oppose him no matter how temperamentally, professionally, intellectually, or ethically qualified he or she is.

However, as I have said before, many of us on this side of the aisle, voted for

Justice Ginsburg when she went through the Senate when President Clinton was in office. We knew we would not agree with most if not all of her future decisions but we felt we had to admit that she was competent, ethical, and qualified for the job despite our philosophically differences with her.

There are several other Clinton judges, particularly one or two out in the California circuit, that I voted whose future decisions I will probably live to regret for as long as I live. But there is something worse than bad judges, I guess, and that is no judges, which then expands the power of the bad judges like Judge Goodwin and Judge Reinhardt that are on the Circuit Courts of Appeal now.

I will take a moment to note that the Supreme Courts 5-to-4 decision on school vouchers will prove immensely important to thousands of low-income parents whose children are trapped in failing schools. Low-income children need an education even more than other children since it is often their only means of escaping poverty for the rest of their lives. So, when public schools are not succeeding, they and their parents shouldn't be sentenced to failure year after year. They deserve a system and a process that offers them a hand up, and if need be a hand out of a failing school, to find another avenue to succeed. The Supreme Court upheld a process where the money that is being expended on their child in a failing school, or in a school that is drug infested or riddled with crime, can be used instead to lift the child out of the failure and into a setting where they can get an real academically sound education. Is that such an awful result for the thousands of low-income children trapped in dysfunctional and failing schools?

In Philadelphia, PA, I understand the State has taken over the running of the public schools. What a tragedy.

When Cleveland's system was failing, the city seized the initiative to try and improve things, and so have other areas. In this Cleveland's case, they put in place a voucher program that is working. It is helping children get an education that will last the rest of their lives.

Mr. President, getting back to the absurd decision in San Francisco, it is easy for us all to say the Pledge of Allegiance with gusto and mean it, but we need to look behind this decision—how in the world it happened. It is that America's voters understand that these Federal judgeships, and who fills them, do make a difference in the kind of society that not only will we live in, but our children's children will live in. That is why I have tried to find a way to get an agreement to move the President's eminently qualified nominees.

Senator DASCHLE and I have been talking about it for about 3 weeks. I thought we had it all worked out. I think, frankly, we did have it worked out, but now our friend Senator MCCAIN says he is going to object to any and all nominations until he gets some sort of guarantee with regard to a nominee for the Federal Election Commission (FEC). Her nomination was not agreed to for 5 months, and now that the President has started the routine vetting process in order to formally send her nomination to the Senate, Senator MCCAIN is saying that if the nomination is not moved on immediately, he is going to hold up every single nomination pending in the Senate.

The investigation and FBI clearance process, for all nominees—and this is a Democrat nominee—usually takes about 2 months now and she will have to go through that process the same as everyone else. So, the President could not appoint her right now if he wanted to. She has not had the clearance check. So, evidently every nominee is going to be held up today, this week, and all of July over a single nominee to the FEC. That means that lifetime appointments of Federal judges on the circuit and district courts, both Democrat and Republican, some who have been waiting for a year or more, will have to wait for months on this single nominee who could not be confirmed today even if everyone was in agreement about her.

I do not get it, Mr. President. I think this is a real sad commentary and not becoming, quite frankly, of the Senate, if she should allow this unjustifiable obstruction of all nominees to occur.

I have made an effort, as has Senator DASCHLE. I thought we had made real progress and were ready to go forward with an agreement that would move nonjudicial nominations, judicial nominees, marshals, U.S. attorneys, and a lot of folks who have been waiting a long time. Then we hit a stone wall yet again.

I had hoped that one way to do overcome this obstacle would be to move these nominees en bloc. As everyone knows, I do not usually move to Executive Calendar nominations on my own because that is normally the majority leader's prerogative, but if all else fails, you have to take advantage of whatever avenue is available to you.

I hope the American people, and the Senate, will take another look at these judicial nominations—and how we can move them and get them confirmed. If it is a continuation of tit for tat when will it ever end? Maybe it will fall to my lot—no pun intended—to some day say that we are going to end this, and we are going to move these nominations unless there is a big ethical problem or they are obviously not qualified.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Before the Republican leader leaves, I am not going to give a long statement regarding judicial appointments because I have done that on a number of occasions. Suffice it to say, the majority leader went through this. As has been said by the majority leader, and I have said it on a number of occasions, this is not tit for tat, this is not payback time.

I served and practiced law for many years and argued cases before the Ninth Circuit. I have two sons in the Ninth Circuit—Leif Reid is the administrative assistant for the circuit judge; the other was a law clerk to the chief judge—and I am familiar with the circuit. There are very fine men and women serving in that court. I am not here today to defend in any way President Nixon's appointment to the court or President Carter's appointment to the court the two people who wrote that decision. We would all acknowledge it is wrong. I am confident that the Ninth Circuit, when they meet en banc, will stay that decision made by the two judges.

UNANIMOUS CONSENT REQUEST

Mr. REID. I ask unanimous consent that upon completion of the county reform bill, the Senate proceed to immediate consideration of Calendar No. 414, S. 2039, the National Aviation Capacity Expansion Act for 2002.

The PRESIDING OFFICER. Is there objection?

Mr. FITZGERALD. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. It is unfortunate we cannot get consent to move forward with this bill. It is a bill that enjoys strong bipartisan support.

In April, the Commerce Committee voted 19 to 4 in favor of this very important legislation. More than 60 Senators indicated their support by sending a letter to the two leaders asking for this bill to come before the Senate immediately. I simply believe this is a national priority. I have flown into O'Hare many times and understand how busy and important that airport is for the country, not just for the people of Illinois. I believe we have the votes to pass this bill and to do so very quickly.

I say to my friend, the junior Senator from Illinois, to object to this point only delays the inevitable and stands in the way of addressing a national aviation capacity problem in the Chicago region which affects the whole country. It jeopardizes jobs and stalls economic development. I am very disappointed.

Mr. DURBIN. Will the Senator yield?

Mr. REID. I am happy to yield to my friend.

Mr. DURBIN. I thank the majority whip for the unanimous consent request and would like to ask him a question as to whether he has any plans or discussion with the majority leader in reference to proceeding on this matter.

Mr. REID. I have spoken to the majority leader on several occasions. This legislation enjoys strong support and is a priority for the majority leader. It is fair to say the majority leader will use all appropriate avenues to bring this legislation to final passage.

When an impressive coalition and supermajority of the Senate, labor,

business, aircraft controllers, pilots, airlines, general aviation, and five former Secretaries of Transportation write, call, or in some way visit with the majority leader in support of this legislation, it is hard for the majority leader to ignore this, I respond to my friend.

Mr. DURBIN. If the majority whip will continue to yield, the purpose of this unanimous consent request was to make it clear on the record what I personally believed would occur when my colleague from the State of Illinois objected. There were some who said that would not happen, that once this bill had been reported from the committee, had gone through the regular order, with two hearings before the Senate Commerce Committee, on which my colleague from Illinois serves, a hearing both in Chicago as well as in Washington, when ample opportunity had been given both sides to present their point of view, when amendments were considered and offered by my colleague from Illinois, when the final vote on the committee was a substantial bipartisan vote of 19 to 4, it was the belief—and I am sorry to say the mistaken belief—of some of my colleagues in the Senate that my colleague from Illinois would accept a debate on this issue and would accept the consequences, up or down.

Apparently that is not to be the case. It leads us in a position, today, where those colleagues on the floor who have any doubt in their mind should have it dispelled. The objection by the Senator from Illinois makes it clear that he is prepared to delay this as long as possible.

The Senator from Nevada has put his finger on the issue. What is at stake is the safety of O'Hare, the world's busiest airport. What is at stake is the efficiency of that airport. What is at stake are hundreds of thousands of jobs in Illinois and literally the future of our economy. That may sound like hyperbole from a Senator, but what I have said is supported by the Chamber of Commerce on a national and State basis, the national AFL–CIO and the State AFL–CIO, all of the major business organizations, economic development organizations which support this bill and oppose the position taken by the junior Senator from Illinois.

This is not a bill just being offered by me but, rather, with the cooperation and the active participation of my colleague, Senator GRASSLEY of Iowa, Senator HARKIN as well, and a bipartisan coalition. As the majority whip has noted, 61 Senators have signed on in support of this bill and sent a letter to the majority leader and Republican leader to indicate that support. My junior colleague from the State of Illinois certainly does not have that kind of support. He has said he is going to try to delay this and try to avoid it for as long as possible.

In making this unanimous consent and making this statement, I hope it is clear on the record that at this point in time we will use any appropriate means to bring this issue forward. We will not be enslaved by the threat of filibuster. I say to my colleague from the State of Illinois, if he will accept a debate on this issue for a reasonable period of time, offer the amendments, and bring it up for a vote, I will accept the consequences. Let the Senate make its decision, yes or no. If the merits of his argument are compelling, he will succeed. If they are not compelling, he will lose. The same is true for my position. That is the nature of the legislative body. It is the nature of fair play. I hope my colleague from the State of Illinois will reconsider his dedication to these delays.

NINTH CIRCUIT OPINION

Mr. REID. Mr. President, while I still have the floor, I will respond more specifically to my friend, but I want to go off subject a little bit with some good news.

As I just stated, I had a couple of sons who worked the Ninth Circuit. My son Leif Reid is administrative assistant to the Ninth Circuit. He just called the cloakroom and indicated the Ninth Circuit stayed the order that was issued yesterday. The pledge is intact. He is faxing me the opinion of the court.

I am, frankly, amazed they did it as quickly as they did, but I am happy they did this.

Back to O'Hare, again I am speaking—and I rarely do this, but on this occasion I am speaking for the majority leader of the Senate, TOM DASCHLE. Senator DASCHLE has authorized me to say to Senator DURBIN that he will use all his options, all the options of the Senate, to pass this legislation this year.

On behalf of the many people who support this legislation, I say to my friend, Senator DURBIN, he has done great work on this issue. I appreciate the support of Senator GRASSLEY and Senator HARKIN but especially the Senator from Illinois for his hard work on behalf of frustrated fliers everywhere. We have frustrated fliers at McCarran in Las Vegas, the sixth busiest airport in America. This is unfortunate to frustrated fliers. When fliers at O'Hare are less frustrated, we have more people coming to Las Vegas. It affects not only the Chicago area, the State of Illinois, but the entire country. That is a massive airport and is a feeder to the rest of the world.

I salute Senator DURBIN for such patience. The Senate is going to act on this legislation in some way. There are ways to do this. We are going to do it in some way, shape, or form, and we will do it as quickly as we can. The Senator has the full support of the majority leader.

Mr. DURBIN. I ask unanimous consent to be recognized for 10 minutes in morning business.

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

Mr. DURBIN. Mr. President, I again thank my colleague from the State of Nevada. Let me explain for a moment what the issue is before us so those who are not familiar with it can come to understand it. O'Hare is pretty well known across America. It is our busiest airport. In the year 2001, despite September 11, it turned out to have more flights and passengers than virtually any airport in America.

But O'Hare is an airport that was designed and built in 1959, 43 years ago, with an anticipated annual volume of 20 million passengers. It now has some 67 million passengers annually. The runways that were designed in 1959 were designed to standards and expectations of that era—standards and expectations that have changed dramatically.

What we have seen in 43 years is larger planes, more frequent flights, changes in air traffic control. All of these have challenged O'Hare and every airport in the country to modernize. But O'Hare has been stuck with the same runway configuration now for over 40 years.

Part of it has to do with politics because in my State of Illinois the Governor has the final word when it comes to the construction of airports. Politically, it meant that a Democratic mayor of Chicago and a Republican mayor from some other part of our State would rarely find common ground or agreement on the future of O'Hare. But last year, there was finally a breakthrough. Gov. George Ryan, a Republican, and Mayor Richard Daley of Chicago, a Democrat, came to an agreement about how to change O'Hare, modernize it, improve it, and make it safer. Many people thought it could not occur, but it did happen, and because of that decision and because of that agreement we now have a chance to make that airport modern and safe by 21st century standards.

Some say that seems to be obvious. Who would object to it? It turns out that a handful of communities around O'Hare naturally are concerned about the prospects of changing flight patterns or expanding service to that airport. They would object, as one might expect.

The elected officials in that area created a coalition to oppose these changes at O'Hare. My colleague in the Senate, the junior Senator from Illinois, has announced his opposition to any plans to change O'Hare. I understand that. But there comes a moment in time when you have to say: What is in the best interests of our entire State? What is in the best interests of the region? What is in the best interests of the Nation?

I think what the people of Illinois have said in overwhelming numbers is they believe this historic agreement is in our best interests. We have the support, as I mentioned earlier, of the National Chamber of Commerce, the Illinois State Chamber of Commerce, the National AFL–CIO, the Illinois State AFL–CIO, the Airline Pilots Association, the air traffic controllers, general

aviation, virtually all major airlines. They have all signed onto this.

So as some might suggest, this is a unanimous opinion of the experts in aviation that this plan moving forward makes sense.

Of course, every item in the planned agreement between the Governor and the mayor would be subject to the same types of scrutiny and restriction as any other airport design. What I have here is the report of the Committee on Commerce, Science, and Transportation, which presents this bill, S. 2039, to the Senate. They make it clear here in precise language:

> Nothing in the bill guarantees any funding for the O'Hare or Peotone project, or mandates that a specific set of runway configurations be approved, as the FAA retains all its existing discretion to analyze, review, and, if all relevant tests are met, approve the O'Hare project.

They go on to to say:

> The FAA has discretion to modify the plan, if necessary, for efficiency, safety, or other concerns.

It says of the bill that it:

> Requires any redesign plan to conform with the Clean Air Act and to conform with all other environmental mandates to the maximum extent possible, while requiring the State use its customarily practices to analyze any Clean Air Act requirements.

And it goes on to say this bill:

> Provides no Federal priority for federal funding of any O'Hare projects, including the runway design plan.

My colleague will stand up here and tell you what I said is a lie; it is not true. But what I put before you is the report of his committee, which says in black and white that the FAA has the last word. The FAA can reject it. The FAA can say this runway plan will not work. He can stand here, as he has repeatedly, and say those words are not true. I stand behind the committee, his committee, and the report they have given to the Senate.

I think what they have said is true because I wrote the bill and I know what is in it. When the Senator from Illinois offered an amendment in committee and said: I want to make sure the FAA has the last word, we said we will take the amendment. We accept it. Still, it is not enough.

It has really come down to the point where it will never be enough when it comes down to what my colleague is asking for in this bill.

We have a situation where we have 61 Senators here who have signed onto a letter to the leadership, saying they are prepared to move forward on this bill. I can tell you an additional two Senators this week have told me they are prepared to support this as well. Another 10 Senators on the Republican side of the aisle have said they will support it when it comes to a vote. So the vote will be substantial.

The question before us, though, is when and where this will take place. The Senator from Illinois, my colleague, has made it clear by his objection that he is prepared to filibuster this bill. He has said as much—in Illinois and here in Washington. It is no great surprise.

But some of my colleagues in the Senate have said: Oh, no, he won't do that; when it is all over, he is going to bring it up and offer his amendments and take a vote and then it will all be over.

I said: No, I don't think so. Let's go ahead and make this unanimous consent request so it is clear on the record his intention and design to lead this to a filibuster, and I think we have done that today. In the course of doing that, I think what we have established is that we have to find whatever appropriate means are available, working to bring this issue for a vote in the Senate.

I am prepared to accept the decision of the Senate on this issue. I think that is why we are elected to this body, to bring our best ideas forward and say to the assembled Senators: We hope you will support us. If you do not, then it is understood we have lost our day, our opportunity. But I think now, in the best interests of safety at O'Hare, hundreds of thousands of jobs in our State, and the best interests of business in the region, that we should pass this bill as quickly as possible.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I come to the floor just to compliment the distinguished Senator from Illinois for his determination and the effort that he continues to make to ensure success. I will guarantee that before the end of this session, one way or the other, we are going to resolve this successfully. We will do whatever it takes to ensure that the people of Illinois, the business community at and around O'Hare and the tremendous service it provides are protected and that the priority it deserves is given on the Senate floor.

The Senator from Illinois has been relentless in his determination and in his advocacy. He has spoken in the caucus on countless occasions, in leadership, and on the Senate floor. I just wanted to assure him publicly, as I have privately, that we will continue to work on this until we get it done. It will happen.

I am convinced that 95, maybe 98 Senators support what the Senator from Illinois is attempting to do. I have every confidence that once we get to the vote, it is going to be overwhelming. So I will assure the Senator that we will continue to work with him and find a way to do it and make sure that it gets done in a time that will send the right message to the people of Illinois, the people of Chicago, the people who are concerned about safety, concerned about jobs, concerned about economic development—that the Senate understands that and, thanks to the leadership of the Senator from Illinois, we are going to deliver.

I simply wanted to add my voice to the many who support the Senator's efforts. I appreciate very much his coming to the floor this afternoon, again, to reiterate the extraordinary importance that this issue and this project has for the people of his State. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I express my appreciation for this expression of personal support from the majority leader. I thank him. He has been cooperative from the start. He understands, as we all do, this is not a Chicago issue. This is a national issue. It is an issue that Senators across the Nation understand as we sit, hour after weary hour, in airports, wondering: What is wrong at O'Hare now?

What is wrong is a 40-year-old runway design that needs to be modernized; it needs to be safer; it needs to be improved. We cannot allow this issue to die. For the good of that airport, for national aviation, for jobs in Illinois, stopping this bill is a job killer in a State that needs jobs desperately. Stopping this bill is a business killer in a State that desperately needs businesses to expand. Stopping this bill is putting a dagger in the heart of the single most important public works project in the history of our State. I am not going to let that happen without a fight. I am happy to have the majority leader in my corner.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

The Senator is recognized.

Mr. FITZGERALD. I thank the Chair.

Mr. President, I would like to respond to what my colleague from Illinois just said. I think there are a number of points that were glossed over.

I do oppose Senator DURBIN's bill with respect to O'Hare. Mr. DURBIN said it is necessary to pass this bill in order to expand O'Hare Airport. But I would point out that never in the history of our country, that I am aware of, has any airport in this country had a special bill mandating that the FAA approve its particular expansion plans.

The fact is, if Mayor Daley of Chicago wants to expand O'Hare Airport, he can simply file an application with the FAA to expand O'Hare Airport. The trouble is, if that were the case—if Mayor Daley were simply to file an application similar to all the other airports in the country—his application would have to be judged on the mere merits.

So Senator DURBIN and Mayor Daley came up with the idea of drafting a statute. They put that into bill form and are now asking Congress to pass it.

The purpose of that bill is twofold:

No. 1, the bill would straightjacket the FAA so that they would have no choice but to approve Mayor Daley's specific runway design at O'Hare Airport.

I could go on for a very long time. But maybe I will save that for a later date to tell you why it is in fact a bad runway design that Mayor Daley is trying to mandate in Federal law.

The bill of Senator DURBIN—I don't care what the committee report says—says that the FAA shall implement a Federal policy in favor of approving six parallel runways running in the east-west direction at O'Hare Airport. It says east-west. It is very specific.

I take issue with my colleague's comments or suggestions that the FAA could change it. In fact, it would be illegal for the FAA to reposition those runways in a northwest-southeast direction. Mayor Daley's and Senator DURBIN's exact runway design will be locked into Federal statutory law if my colleague's bill passes.

That is one of the objectives my colleague has. He wants to straightjacket the FAA, put a gun to the FAA's head, and force them to approve a bad runway design that has never been reviewed by any Federal aviation expert. It has never been tested in any modeling. In fact, it appears to be the back-of-a-napkin design.

Mayor Daley was before the Senate Commerce Committee, and he admitted that the city of Chicago had never itself done any studies to back up that design.

There is another goal my colleague is trying to accomplish with S. 2039. Right now, the city of Chicago has the power to condemn lands around O'Hare Airport and communities around O'Hare Airport, provided Mayor Daley gets a permit from the State of Illinois to do that. Senator DURBIN's bill would remove the requirement that Mayor Daley get a permit from the State before he condemns the communities around O'Hare. They cannot pass legislation in the State senate that would get rid of the permit requirement. So they have decided to come to Congress in Washington and to strip away the State's law and permit requirement at the Federal level.

If my colleague's bill passes, that will mean Mayor Daley could condemn all the communities around O'Hare without getting a permit from anybody. He would have an unfettered ability to condemn properties in communities that are outside the city of Chicago.

Imagine if the mayor of Minneapolis could go willy-nilly and condemn communities all around Minneapolis. Imagine what the communities around Minneapolis would think.

I think the State legislature was wise in imposing a requirement that the mayor of Chicago, before he goes out and condemns communities around his city, get a permit from the State of Illinois. I think the Federal Government would unbalance that wise State law if we were to remove that permit requirement.

If one person had the ability to willy-nilly condemn all parts of the Chicago area around O'Hare Airport, that would literally give the mayor of Chicago unfettered license to run over anybody he wanted at any time he wanted. I don't think this body should be part of conferring that kind of unfettered ability to run over people on the mayor of Chicago.

There are delays at O'Hare Airport right now. That is no doubt true. I stood right here 2 years ago and warned Congress not to lift the delay controls at O'Hare Airport. From 1969 to 1999—for 30 years—the FAA had delay controls at O'Hare Airport so that the airlines didn't schedule more flights than the airport had the capacity to handle.

In 1999, Congress took off the delay controls, allowing the airlines to schedule more flights than O'Hare had the capacity to handle. I warned that we would have horrible delays if we lifted those delay controls. That happened. There were interim studies by the FAA which showed that if the delay controls at O'Hare were lifted, delays would go up exponentially, and they have.

In my judgment, that was a deliberate attempt by United Airlines and American Airlines to cause delays at O'Hare and to build pressure to further expand O'Hare in an attempt to block a third airport which has been needed in Chicago for nearly 30 years. That is what we now see.

I also note that while Senator DURBIN's legislation would require the FAA, or force, or command the FAA to approve a runway expansion plan at O'Hare that would increase the capacity of the runways by 78 percent, at the same time the plan is to build new terminals which would only add 12 new gates.

This is a very bizarre plan that Congress is entering into. We are going to expand runway capacity by 78 percent, but we are only going to add 12 new gates. That really means that once runway capacity is expanded at O'Hare, it will be possible under this plan to land a plane but you will have nowhere to park it. It doesn't make any sense. It is not appropriate for Congress to be wresting control of airport design from the FAA and curtailing the FAA's discretion. We should leave the FAA's discretion intact.

If Senator DURBIN believes his runway design for O'Hare Airport has merit, then he should file an application with the FAA and see if the FAA approves it. He should not seek an end-run around the rules that all the other airports in the country abide by, nor should this body be part of stripping away the State of Illinois' requirement that the mayor of the city of Chicago get a permit before he condemns properties and communities that are outside the city of Chicago.

It is not right to give the mayor of Chicago unfettered ability to run over anyone he wants at any time he wants.

S. 2039 is an unfortunate piece of legislation. I will do everything I can to prevent its passage.

I note one good development. The House of Representatives took this bill up in just the last couple of days—I believe on Wednesday—a House companion bill to S. 2039. The House committee stripped out the language that had the effect of putting a straightjacket around the FAA and commanding the FAA to approve a specific runway design at O'Hare Airport. Even the House committee recognizes the impropriety of Congress putting a gun to the head of the FAA and forcing them to approve a specific runway design.

The House legislation simply allows Chicago to file a plan with the FAA and to be considered the same way any other airport expansion program or proposal is considered anywhere else in the country. Unfortunately, however, the House legislation does have the language giving the mayor of the city of Chicago unfettered condemnation authority, which I think is, as I pointed out earlier, a big mistake.

So with that, I do look forward to the debate. I am sure the debate will be coming. And if I cannot defeat this legislation, I ultimately want to change or modify it to make it less egregious than it now is. In its current form, it is such an egregious piece of legislation that I think it would be inappropriate for our Senate to devote time to it when we have Medicare prescription drug issues, homeland security, and 13 appropriations bills we still have not addressed.

With that, Mr. President, I thank this body for affording me this time to speak. I yield the floor and wish all my colleagues a good Fourth of July recess.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). 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 remarks of Mr. REID pertaining to the introduction of S. 2697 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we proceed to a period of morning business, with Senators permitted to speak therein for up to 5 minutes each.

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

PATENT AND TRADEMARK AUTHORIZATION ACT OF 2002

Mr. LEAHY. Mr. President, I am pleased that the Senate passed a bill which I introduced, the Patent and Trademark Authorization Act of 2002, which was reported out of the Judiciary Committee last week without objection. I appreciate that Senators HATCH, CANTWELL, REID, BENNETT and

CARPER joined with me in co-sponsoring this bill

This bill, the Patent and Trademark Authorization Act of 2002, will send a strong message to America's innovators and inventors that the Congress intends to protect and enhance our patent system. The PTO serves a critical role in the promotion and development of commercial activity in the United States by granting patents and trademark registrations to our Nation's innovators and businesses.

The costs of running the PTO are entirely paid for by fees collected by the PTO from users, individuals and companies that seek to benefit from patent and trademark protections. However, since 1992 Congress has diverted over $800 million of those fees for other government programs unrelated to the PTO.

This bill sends a strong message that Congress should appropriate to the PTO a funding level equal to these fees. The reason for this is simple: the creation of intellectual property by Americans, individuals and businesses, is a massive positive driving force for our economy and is a huge plus for our trade balance with the rest of the world. In recent years, the number of patent applications has risen dramatically, and that trend is expected to continue. Our patent examiners are very overworked, and emerging areas such as biotechnology and business method patents may overwhelm the system.

If fully implemented as intended, this bill can greatly assist the PTO in issuing quality patents more quickly, which means more investment, more jobs and greater productivity for American businesses.

The House of Representatives has passed a bill, H.R. 2047, which contains some similar provisions but just for fiscal year 2002 regarding the authorization of appropriations. That bill, H.R. 2047, was also passed by the Senate but amended to include the text of S. 1754, as reported out of the Judiciary Committee. This will provide the Congress the greatest opportunity to get this reform on the President's desk for signature.

Note that the Judiciary Committee reported out a substitute bill, with the assistance of Senator HATCH, which simply moved back some dates in S. 1754, as originally introduced. I am including a short explanation of S. 1754, as reported. This explanation also applies to the version of H.R. 2047 as passed by the Senate.

Section 1 of the bill sets forth the title, ''The Patent and Trademark Office Authorization Act of 2002.''

Section 2 authorizes Congress to appropriate to the PTO, in each of fiscal years 2003 through 2008, an amount equal to the fees estimated by the Secretary of Commerce to be collected in each of the next 5 fiscal years. The Secretary shall make this report to the Congress by February 15 of each such fiscal year.

This bill thus sets forth the goal, strongly supported by users of the patent system, that the PTO should have a budget equal to the fees collected for each year. In recent years, the appropriations' committees have not provided annual appropriations equal to the fees collected. This bill sets forth the wishes of the committee, and now the Senate as a whole, that the PTO be funded at levels determined by the anticipated fee collections.

Section 3 of the bill directs the PTO to develop, in the next three years, an electronic system for the filing and processing of all patent and trademark applications that is user friendly and that will allow the Office to process and maintain electronically the contents and history of all applications. Of the amount appropriated under section 2, section 3 authorizes Congress to appropriate not more than $50 million in fiscal years 2003 and 2004 for the electronic filing system. The PTO is working on this electronic system.

In section 4, the bill requires the Secretary of Commerce to annually report to the Judiciary Committees of the House of Representatives and the Senate on the progress made in implementing its strategic plan. The PTO issued a short version of its ''21st Century Strategic Plan'' on June 3, 2002, which is available on their website.

The bill also contains two sections which will clarify two provisions of current law and thus provide certainty and guidance to the PTO as well as inventors and businesses.

Section 5 of S. 1754 expands the scope of matters that may be raised during the reexamination process to a level which had been the case for many years. In background, Congress established the patent reexamination system in 1980 for three purposes: to attempt to settle patent validity questions quickly and less expensively than litigation; to allow courts to rely on PTO expertise; and, third, to reinforce investor confidence in the certainty of patent rights by affording an opportunity to review patents of doubtful validity.

This system of encouraging third parties to pursue reexamination as an efficient method of settling patent disputes is still a good idea. However, by clarifying current law this bill increases the discretion of the PTO and enhances the effectiveness of the reexamination process. It does this by permitting the use of relevant evidence that was considered by the PTO, but not necessarily cited. Thus, adding this new language to current law will help prevent the misuse of defective patents, especially those concerning business method patents.

It permits a reexamination based on prior art cited by an applicant that the examiner failed to adequately consider. Thus, this change allows the PTO to correct some examiner errors that it would not otherwise be able to correct. In a sense it deals with In re Portola Packaging, 110 F.3rd 786, Fed. Cir. 1997, in a manner which should reduce the number of cases which will be handled in Federal court in a manner that fully protects the rights of interested parties, and the public interest. Thus, section 5 does not change the basic approach of current law but rather eliminates a presumption which could be wrong, allowing for mistakes to be fixed without expensive litigation.

Section 6 of the bill modestly improves the usefulness of inter partes reexamination procedures by enhancing the ability of third-party requesters to participate in that process by allowing such a third party to appeal an adverse reexamine decision in Federal court or to participate in the appeal brought by the patentee. This may make inter partes reexamination a somewhat more attractive option for challenging a patent in that a third party should feel more comfortable that the courts can be accessed to rectify a mistaken reexamination decision. This section should increase the use of the reexamine system and thus decrease the number of patent matters adjudicated in Federal court.

I look forward to working with the other body to assure that this bill becomes law as soon as possible. I appreciate the work of Herb Wamsley of the Intellectual Property Owners Association on this bill, and of Marla Grossman who worked with us in this effort. Also, I want to thank Mike Kirk of the American Intellectual Property Law Association for his help on these patent fee matters over the years.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. 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 in August 2001 in Monmouth County, NJ. Seven people assaulted a 23-year-old learning disabled man with hearing and speech impediments. The victim was lured to a party, bound, and physically and verbally assaulted for three hours. Later, he was taken to a wooded area where the torture continued until he was able to escape. The perpetrators were sentenced on multiple counts in connection with the incident, including aggravated assault and harassment by bias intimidation.

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.

GETTING ANSWERS

Mr. DORGAN. Mr. President, during England's darkest hour in 1940, Winston Churchill spoke of an unwavering sense of purpose. ''You ask, what is our aim? I can answer in one word: it is victory, victory at all costs, victory in spite of all terror,'' he told members of Parliament.

Sixty years later, we here in the United States are fighting a different kind of terror, terrorists who hide in caves and plan the murder of thousands of innocent Americans, but our resolve to defeat it matches that of Churchill. Some have expressed concerns that the investigations of how our intelligence and law enforcement authorities handled information prior to 9–11 will weaken our efforts to defeat terrorists.

Frankly, I think the questions that are being raised will strengthen our efforts to defeat terrorism. We have a lot of good men and women working in the CIA, the FBI and other agencies. But evidence, we have learned in recent months, suggests that there is a layer of bureaucracy and resistance in the management of some of these critical agencies that stifles the efforts of good law enforcement and good intelligence when tracking terrorists.

We have to fix that. Our job is to prevent the next act of terror and if the bureaucracy is clogging the arteries of our intelligence and law enforcement agencies, then we have to get rid of it.

Consider this: six months after Mohammed Atta and MarwanAl-Shehhi flew huge jets into the World Trade Center, the U.S. Immigration and Naturalization Service inexplicably sent notice their visa status had been changed from travel to student. In recent weeks, reports indicate a Phoenix FBI agent alerted headquarters of his suspicions about Middle Eastern men taking flight lessons. Minneapolis agent Coleen Rowley has complained bitterly that her office's efforts to obtain a search warrant about a suspected highjacker were ignored. Now the CIA says that it was tracking two of those who committed terrorist's acts on 9–11, but there is controversy over whether the FBI was actually notified. As a result the terrorists moved in and out of our country with ease. These and other reports, in recent months, raise real concerns about how these federal intelligence and law enforcement agencies are working to prevent future acts of terrorism.

When people begin to raise questions about these issues, some claim that the intent is to criticize President Bush.

President Bush, indeed any President, would have moved heaven and earth to prevent the catastrophe of 9–11 if he had received any advance warning. These inquiries are not about the President or the White House. They are about the effectiveness of our Federal agencies in the war against terrorism here at home.

The information disclosed in recent months about some of the failures of these agencies has come from people working inside the agencies. These are employees of the FBI and other agencies who are blowing the whistle on agency managers who fail to see the gravity of this situation and refuse to take appropriate actions.

For example, Minneapolis FBI agents were admonished by their superiors for sharing information with the CIA in the case of suspected terrorist, Zacarias Moussaoui, who had links to Osama bin Laden. That is unacceptable. These agencies need to work together. Preventing the next terrorist act is a tough job, and we will succeed only if we have all of the resources working full time and cooperating fully.

In recent months and weeks, the head of Homeland Security has warned our country the terrorist attacks against the Untied States could happen at any time. That's why these agencies and their officials have to be fighting the battle against terrorists, not turf battles between their agencies.

Big, bureaucratic and slow doesn't get it anymore. We deserve better from these agencies. What if there is critical information right now in the possession of one agency that is not sharing it with another? Are those who dropped the ball last year in these agencies. The same ones we now rely on to prevent another terrorist nightmare?

The answer to these questions is why this is such an urgent matter. We, the President, the Congress and the American people, deserve the unvarnished facts so that we can move ahead and protect our country, so I say let's do these investigations. Let's make sure that they don't turn into a circus. As Sergeant Joe Friday used to say, ''Just the facts, ma'am.'' Let's use those facts to make the changes these agencies so that the men and women of the FBI, the CIA and other agencies who are very capable and serve America well, are able to do their jobs successfully.

Only then, as Winston Churchill did, can we finally win the war against terrorism.

PLEDGE OF ALLEGIANCE

Mr. ALLARD. Mr. President, I would like to speak on the ridiculous ruling of the Ninth U.S. Circuit Court of Appeals. Literally ridiculous; it deserves to be ridiculed. It was a 2–1 decision, so there is, at least, one judge on the Court who can rule based on the same legal and civic theory that the rest of the country has been operating under for the last 226 years.

I cannot accept removing ''under God'' from the Pledge of Allegiance. This ruling is appalling. I never thought I would see the day when saying the Pledge of Allegiance would be declared unconstitutional by a court. I certainly did not think I would see it on the day I placed my hand on a Holy Bible and made an Oath at my swearing in.

The Magna Carta of 1215, considered the initial codification of Western democratic theory, clearly shows that power is granted from ''above.'' Not ''above'' from a judge's bench, but higher—from an Almighty Power. Every major assertion of our fundamental political thought references God, and not in passing, but as a cornerstone of human life.

Sometimes it is again literally a cornerstone. The Jefferson Memorial has quotes from that great man, which contain references to God carved into the stone. The Lincoln Memorial also has a testament to that President's commitment to God cut into the very marble. Anyone reading his Second Inaugural must know his view of a daily presence of God in the affairs of man and in the political life of this nation. The Holocaust Memorial facade quotes scriptures. So does our Library of Congress, Union Station, Constitution Hall, and many others.

Even William Shakespeare's Puck is quoted referring to God over outside the Folger Shakespeare Theater—in a quote that I think rings especially true regarding certain court rulings—''Lord, What fools these mortals be.'' Lord, what foolish rulings these judges make. There has already been discussions on this floor regarding our coins, our money, and this very Chamber. I don't bring these up just to worry aloud as to whether they are soon to be ruled against as well, but to show that our nation was incorporated under God, and an attempt to excise God from this Republic is wrong and lacking in historical and legal insight.

Our citizens are free from an official state religion—not forced to be free from religious thought.

When President Eisenhower signed the law adding ''under God'' to the pledge, he was not doing so in attempt to lead this Nation down a Godly path. It was not using the bully pulpit to attempt to steer a course. He was affirming that this nation has already consistently and thoroughly incorporated belief in and submission to God.

We separated ourselves from the United Kingdom under the laws of Nature's God, claiming the unalienable rights we were endowed with by our Creator and appealing to the Supreme Judge of the world for recititude of our intentions. We have continued this way ever since—no matter what the Ninth might say.

Finally, I want to make it clear that I am not merely upset about the fact that the Pledge of Allegiance was ruled against. I want to also speak against the ongoing assault on our basic religious beliefs. As my friend Senator SESSIONS voiced earlier, this is just another result of a dangerous and radical viewpoint that is held by an irresponsible few. Few as they are compared to our citizens as a whole, there are far too many in this body and elsewhere who express beliefs and support for radical judges that cannot help but lead us to these types of decisions. We do not jump from a nation that believes itself endowed by its Creator with

unalienable rights to a nation where the Pledge of Allegiance can be ruled unconstitutional without many intervening steps along the way. Those of us who oppose the many small steps taken down this path welcome those who finally stand aghast at where we end up. I hope this body and the Nation will move to correct the error.

REPORT ON TRIP TO BULGARIA, MACEDONIA, KOSOVO, SLOVAKIA, SLOVENIA AND BRUSSELS

Mr. VOINOVICH. Mr. President, over the Memorial Day recess, I joined seven members of the House of Representatives to participate in the spring meeting of the NATO Parliamentary Assembly. Twice a year, legislators from NATO member countries and seventeen countries that have been given ''associate'' status—including NATO aspirants and members of the Partnership for Peace program—gather to discuss significant issues facing the Alliance.

At the forefront of the agenda this year were issues related to the war on terrorism, and questions that will be raised when NATO heads of state meet in Prague this November, including: the future direction of the Alliance; the growing gap in military capabilities between the United States and our European allies; and the selection of new members.

This was the third year that I have participated in the NATO Parliamentary Assembly's spring gathering. The meeting took on a new urgency as the Alliance continues to confront a changed international security environment in the aftermath of the terrorist attacks on September 11th. As parliamentarians discussed the military campaign in Afghanistan and the role of NATO in the war on terror, I reminded my European counterparts of the need to invest in the defense budgets of their respective countries. Without fundamental military capabilities such as strategic airlift and command and control systems, the European contribution to the global war on terrorism will continue to be limited.

It was clear throughout the meeting that the events of 9–11 have impacted discussions in many areas, including expansion of the Alliance. During consideration of a Declaration on NATO Enlargement, I introduced an amendment calling attention to the significant threats that terrorism and the proliferation of weapons of mass destruction pose to NATO countries, and recognizing that as NATO considers enlargement, the Alliance remains open to tolerant, democratic societies, which embrace values that terrorism seeks to destroy.

As the meeting progressed, I also expressed my strong support for a robust round of enlargement during the Summit of the Alliance in Prague later this year. I share the President's vision of enlargement, articulated in Warsaw, Poland last June, when he said that as we approach Prague: ''We should not calculate how little we can get away with, but how much we can do to advance the cause of freedom.''

Yet while the Alliance should extend invitations to a number of countries in Prague, I believe it is premature to single out countries for membership at this point. Instead, we should continue to encourage aspirants to make progress on their membership action plans and move forward with democratic, economic and judicial reforms.

As such, during consideration of the Declaration on NATO Enlargement, I joined Congressman DOUG BEREUTER, the chairman of the U.S. delegation, and other members of the United States Congress at the meeting in abstaining from a vote on an amendment that identified seven countries as ready for membership in the Alliance. Despite U.S. concerns, the amendment was adopted.

While I do not disagree that the countries listed in the amendment—Bulgaria, Romania, Slovakia, Slovenia, Estonia, Latvia and Lithuania—have made some strides in their preparations to join NATO, there are serious discussions that must take place between now and November regarding the selection of new members.

This spring's NATO Parliamentary meeting was especially important to its host country, Bulgaria, which hopes to receive an invitation to join the Alliance in Prague. I remain very interested in discussion about NATO enlargement, and while in Sofia, I was glad to have opportunity to visit with Prime Minister Simeon Saxe-Coburg-Gothe and President Georgi Parvanov to discuss Bulgaria's work to join the Alliance. I also met with Defense Minister Nikolay Svinarov and Foreign Minister Solomon Passy, who I have met with previously in my office in Washington, DC.

My first official visit outside of the NATO session was with Bulgaria's Defense Minister, Nikolay Svinarov. Just minutes before our meeting, Mr. Svinarov spoke to the NATO PA's Committee on Defense and Security, outlining Bulgaria's plans to move forward with defense reforms. His presentation was clear, and I congratulated him on his effort to describe Bulgaria's progress on the defense portion of the membership action plan (MAP). While noting the progress that has been made, I encouraged him to follow through on the vision that he articulated to the NATO parliamentarians. I was impressed with Bulgaria's plan; however, it is evident that there is still a lot of work to be done to implement their ambitious agenda for military reform.

My impressions were reaffirmed several days later when I visited Graf Ignatievo air base, near the city of Plovdiv. The enthusiasm of the officers and pilots at the base was evident. Since 2001, the Bulgarian government has invested in modernization of base infrastructure, upgrading the runway and the flight line and renovating buildings and training facilities. While this is certainly a positive development, I was concerned with the equipment at the base, including Soviet-era MiG–29 and MiG–21 aircraft. While the MiG–21s will be retired, the Bulgarians hope to upgrade their MiG–29s by 2004, with the goal of full NATO interoperability. There are serious questions not only about whether or not this can actually be done, but also whether this is money wisely spent. As NATO considers questions about military capabilities, it will be important to consider how NATO members and aspirant countries can best invest limited defense dollars to contribute to the overall mission of the Alliance. As Bulgaria continues with defense reforms, this will be one factor to consider.

Bulgaria must also confront challenges in other areas, including the need to move forward with judicial reforms. The government must take action to combat corruption and organized crime. I discussed this issue with Prime Minister Saxe-Coburg-Gothe and President Purvanov, as well as Foreign Minister Passy.

Perhaps one of the most eye-opening conversation I had during my trip to Bulgaria was with FBI Special Agent Victor Moore, who is working with the Bulgarian government and local NGOs to combat human trafficking. As a member of the Helsinki Commission and an active participant in the annual meetings of the OSCE Parliamentary Assembly, I have worked on this issue with Congressman CHRIS SMITH—who has a long record of work to combat the trafficking of men, women and children. I also follow the efforts of the Southeast European Cooperative Initiative (SECI), which aims to combat trans-border crime in the region.

SECI has spearheaded an initiative to combat human trafficking in southeast Europe, and Vic Moore's efforts are tied directly to their objectives. Of his eleven years in the FBI, he spent nine of them working on drug enforcement in New York City. In Bulgaria, he is working to give law enforcement personnel the skills they need to investigate and prosecute human trafficking cases. The Bulgarian government has formed a multi-agency task force, which has liberated more than 160 women, issued 60 arrest warrants and captured approximately 60 traffickers. This important work should continue. I believe it is important that the government take continued steps to strengthen the rule of law and reform the judicial systems. This will be important as NATO evaluates the progress of aspirant countries later this year.

In all of my conversations in Sofia, one thing was clear: the people of Bulgaria, and the members of government who represent them, want to join NATO. Over a breakfast meeting with members of the U.S. delegation at the home of our Ambassador to Bulgaria Jim Pardew, President Parvanov said that there is complete public and political consensus on NATO in Bulgaria.

I am hopeful Bulgaria's enthusiasm for NATO membership remains high, and the government stays committed to critical reform efforts.

After participating in the NATO Parliamentary Assembly meeting in Sofia, I traveled to Macedonia, Kosovo, Slovakia, Slovenia and Brussels to evaluate the situation in southeast Europe, and to examine progress in Macedonia, Slovakia and Slovenia as they work to join NATO.

Following my arrival in Skopje on Tuesday, May 28, 2002, I had the opportunity to visit with our Ambassador to Macedonia, Larry Butler, and his team at the U.S. Embassy. This was my third trip to Macedonia as a member of the U.S. Senate. I first traveled to Macedonia during the war and visited Stankovic refugee camp; my second trip was in February 2000, and I met with President Trajkovski, Prime Minister Goergievski, and ethnic Albanian leader Arben Xhaferi. At that time, our focus was on Kosovo. Since the spring of 2001, all eyes have been in Macedonia.

In August 2001, following the outbreak of violence in the spring by ethnic Albanian rebels from Macedonia and Kosovo, the government's political parties came together to sign a peace agreement. The plan—called the Ohrid Framework Agreement—called for the passage of laws and constitutional reforms to address concerns of Macedonia's ethnic Albanian minority, which makes up approximately one-third of the country's population.

At the time of my visit last month, the government was expected to pass a final package of laws to implement the Ohrid Framework Agreement. This was a primary topic of discussion in my conversations with our Ambassador and staff at the U.S. embassy, as well as President Trajkovski and Mr. Xhaferi. While the parliament did not act in the days immediately following my visit, as hoped, I was pleased to learn that fifteen of the seventeen outstanding laws were passed last Thursday, June 20, 2002. I am hopeful that action on the remaining issues will be taken soon.

During my meeting with Arben Xhaferi, he stressed the importance of the international community's involvement in Macedonia. He said the United States should continue to play a role in Macedonia—both with its military presence and financial assistance. While I agree with Mr. Xhaferi that U.S. involvement in the region is important, I stressed to him that the people of Macedonia—regardless of ethnicity—must take action to improve the situation in their country. While the international community can play a helpful role, ultimately, things are in the hands of the people and their elected leaders. As such, I encouraged Mr. Xhaferi to move forward with efforts to implement democratic and economic reforms, and to promote respect for the rule of law. I also shared with him my strong concern with organized crime, corruption and human trafficking in the region, and urged him to take action in this area.

During my meetings, it was also clear that demarcation of the border between Macedonia and Kosovo has become a significant political issue in both Macedonia and Kosovo. Some in Macedonia would like to move forward with the demarcation of border, recognized by the U.N. Security Council, which was formally agreed upon by Macedonia and the Federal Republic of Yugoslavia in March 2001.

Judging from my conversations in Kosovo, however, it was evident that there is not yet a consensus regarding the right time to put down markers along the border. This issue must be approached with caution.

I am also hopeful that free and fair parliamentary elections will take place in Macedonia on September 15, 2002, as planned. The United States and members of the international community, including the European Union, should do everything in their power to stress to leaders in Macedonia the importance of permitting people to go to the polls without incidence this fall.

On Wednesday, May 29, 2002, I spent the day in Kosovo. It was my third trip to Kosovo since February 2000, and the fourth full day that I have spent there. During my time in the Senate, I have been very active on issues affecting southeast Europe, and I have been particularly concerned with the situation of ethnic minorities and respect for minority rights throughout the region—in Bosnia-Herzegovina, Croatia, and the Federal Republic of Yugoslavia, as well as Kosovo. As such, I was glad to have the opportunity to examine this issue in Kosovo last month.

I spent time with the Head of UNMIK Michael Steiner, as well as Commander of KFOR General Valentin. I also met with President Rugova and Prime Minister Rexhepi, and Serb leaders Rada Trajkovic and Ljubomir Stanojkovic. I met with Ambassador John Menzies and his team at the U.S. Office in Pristina, and I was glad to visit with General Lute at KFOR Main and some of our troops at Camp Bondsteel, as well as Ambassador Pascal Fieschi, who heads the OSCE Mission in Kosovo.

Around the time of my visit, the Organization for Security and Cooperation and Europe (OSCE) and the U.N. High Commission on Refugees (UNHCR) released the Ninth Assessment of the Situation of Ethnic Minorities in Kosovo, which describes the quality of life experienced by Kosovo's minority groups.

My impressions after spending time in Kosovo last month reaffirm many of the conclusions reached in the OSCE–UNHCR report: while there has been some improvement for ethnic minorities, there is still a long way to go.

My first reaction was that things seem somewhat better now than they were when I visited nearly 3 years ago. I attribute this to several factors, including work done by the international community, including UNMIK, KFOR, the OSCE and others, as well as the interest that the people of Kosovo have shown in creating their own government following parliamentary elections last November and the election of new leadership in March. I believe the participation of the Serbian minority in the parliamentary elections last November was very important, as was the cooperation of the FRY government, which encourage Kosovar Serbs to vote.

Additionally, I was impressed with the ''benchmark'' goals that have been outlined by UNMIK, which call for progress in key areas, including respect for the rule of law, strengthening democratic institutions, and building a civil society.

The benchmarks paper also emphasizes respect for minority rights and refugee returns, which deserve attention both from the international community and from the newly elected leadership in Kosovo.

This document is very important, as it lays out a plan for Kosovo. It will be critical for the international community to refer to this document from time to time to assess progress and, as necessary, to redouble efforts in certain areas. In the past, I have been concerned that the international community has not been focused in its vision of Kosovo, and this document offers a positive step in the right direction.

To make real progress, however, we must encourage Michael Steiner and UNMIK to develop a strategic plan and a critical path for the implementation of the benchmark goals. When I attend the OSCE Parliamentary Assembly meeting in Berlin this July, I will encourage the Head of the OSCE Mission in Kosovo, Pascal Fieschi, to do so. This will allow UNMIK to monitor progress on the benchmark goals.

While in Kosovo, I also met with the Commander of KFOR, General Valentin, and discussed with him the security situation in the region. He is optimistic, and believes that there is progress every day. He said things are much better than they were three years ago. Ambassador Fieschi was also encouraged that things have gotten better for Kosovo's minorities, though he indicated that change has been slow.

While I agree that things are somewhat better, the findings in the OSCE–UNHCR report are less upbeat. With regard to security and freedom of movement, the report reads: ''Despite the decrease in serious incidents of violence, harassment, intimidation and humiliation of members of minority communities in Kosovo continued to prevail as a feature of daily life.'' This affects all of Kosovo's minorities, including Serbs, Roma, Egyptians, Bosniaks, Croats, Albanians, Turks and others.

Serb leaders Rada Trajkovic and Ljubomir Stanojkovic discussed the situation for the Serbian minority with

me over lunch in Gracanica, which was my third visit to the city. Though there are still many concerns which must be addressed, I got the general impression that things are somewhat better for the Serbs than they were two years ago. I am encouraged that Dr. Trajkovic and Mr. Stanojkovic are active and participating with the new government, and I believe it is important that they continue to call on others to do the same. I believe it is essential that Serbs participate in the municipal elections this October and take advantage of the opportunity to participate and have a voice at the table of government.

During my visit, I met with Ibrahim Rugova, who was elected President in March. This was my second meeting with Mr. Rugova—we visited when I was in Kosovo in February 2000. At that time, I also met with ethnic Albanian leaders Hashim Thaci and Rexhep Oosja. Two years ago, as Mr. Rugova and others continued to call for independence, I expressed my belief that there could be little serious discussion on independence until the rights of all people in Kosovo—including minorities—were protected. During our meeting in May, I again stressed this point.

In addition to President Rugova, I also met with the new Prime Minister of Kosovo, Bajram Rexhepi, and discussed with him the situation in Kosovo. I was impressed with him during our meeting. He seems to clearly understand work that needs to be done, focusing on the need for refugee returns and respect for minority rights, as well as the need to stimulate economic development. He reminded me that U.S. leadership in Kosovo, and the region at large, is still very important.

While I was pleased that everyone I spoke with during my meetings in Kosovo last month, including President Rugova, Prime Minister Rexhepi, and Michael Steiner, was committed to refugee returns, I am concerned because there are still more minorities leaving Kosovo than returning. With regard to returns, the OSCE–UNHCR report notes that if more people are to actually return, it will ''require much more meaningful and broad progress on the main issues,'' such as security, freedom of movement, essential services and employment.

I also believe it is critical that Mr. Steiner and UNMIK articulate a clear action plan for returns. Additionally, following my visit to Kosovo, I remain very concerned with the situation in Mitrovica, which remains divided between north and south. I believe the only way to achieve any progress will be if the international community works with the elected leadership in Kosovo to find a solution. While there are different schools of though as to what should happen in Mitrovica, it is imperative that discussion continues and the parties act to normalize life for all the city's residents. This should happen quickly, and any plan on decentralization to give local communities more a stronger voice should be finalized before the municipal elections in the fall.

I also believe we must watch the situation along the border with Macedonia carefully. This issue has become controversial in both Kosovo and Macedonia. While some in Macedonia would like to move forward with the demarcation of the border, this is a sensitive issue which must be approached calmly and rationally. The people of Kosovo do not support this border agreement, and at the end of May, the Kosovo Assembly passed a resolution denouncing the border agreement—which Michael Steiner immediately annulled. I believe there should be discussion on this matter, with all involved parties together at one table.

Following my time in Kosovo, I traveled to the Slovak Republic to discuss the country's aspirations to join the NATO Alliance, and to assess their progress as they continue to participate in the membership action plan process. Though my time was limited, I was pleased to finally have the chance to travel to Slovakia—which was the only country aspiring to join the NATO Alliance that I had yet to visit.

While in Bratislava, I spent time with our Ambassador to Slovakia, Ron Weiser, who is working hard to promote the merits of democracy, the rule of law and a free market economy as the country looks toward membership in NATO. I believe his work is important in the months leading to parliamentary elections this September, which could be a determining factor in Slovakia's candidacy for NATO membership.

During my visit, I had the opportunity to meet with Prime Minister Mikulas Dzurinda, who has pushed forward with critical economic and democratic reforms in Slovakia since becoming prime minister in 1998. His government has placed a top priority on joining NATO and the European Union. Prime Minister Dzurinda and I discussed ongoing efforts to liberalize the economy, strengthen democratic institutions and modernize the country's armed forces. We also talked about the importance of respecting minority rights including the rights of the country's ethnic Hungarian community. Additional, I expressed my strong concern with the problems of organized crime, corruption and human trafficking in central and eastern Europe, and encouraged the Prime Minister and his government to move forward with efforts to address these problems.

I also met with Robert Fico, leader of the Smer (Direction) political party, who hopes to be the country's next prime minister. Young and charismatic, Fico's animate campaign signs were all around town as we drove from one meeting to the next. Fico and his colleague also expressed their strong support for Slovakia's membership in NATO and the European Union. As the polls are close, it is possible that he could play a role in the formation of the next government.

Following my arrival at the Bratislava airport. I met with Defense State Secretary Ratislav Kacer. We discussed ongoing defense reforms, and the country's efforts to increase defense spending. During my time in public service, I have often said it is important to ''work harder and smarter,'' and do more with lees.'' Mr. Kacer knew of my philosophy, and said this could be helpful to Slovakia as the country works to modernize with limited resources. He reiterated the country's strong support of NATO, and said the government has aligned its own national defense priorities with issues important to the Alliance.

Additionally, I have the oportunity to visit with ethnic. Hungarian Leader Mr. Laszlo Dobos, who was a member of Slovakia's parliament during the 1990s. Dr. Dobos is founder and chairman of Madach Posonium, as a Hungarian non-governmental organization that operates Hungarian bookstores in Slovakia and publishes Hungarian periodicals. We discussed a numb4er of tissues of concern to Slovakias Hungarian community, including higher education and greater autonomy for local governments.

During at all meetings in Slovakia, I noted that the upcoming elections will be very important to the future of the country. Voters will decide the direction of he Slovakis Republic—and whether it moves toward membership in NATO and the DU, or whether it is left behind as others joint he broader European Community of democracies. Values are the hallmark of the NATO allcance, and I believe it is critical that Slovakia embraces the ideals of democracy, the rule of low and respect for human rights, consistnt with the current government, and break with the leadership of Vladimir Mecior that has been of strong concern to the United States, the Europe Union and other members international community in the past.

I was also glad to have the opportunity to visit Slovakia to talk about the country's work to join the NATO Alliance. I have long followed developments in Slovenia, and I believe the country is in a very good position as we approach the NATO summit in Prague.

Slovenia has made considerable progress on democratic, economic and defense reforms, and there is continued discussion on the merits of NATO membership in the public. At the same time, it is important that the government act to bolster public support for NATO, which has continued to hover around 50 percent. It is also imperative that the country work to increase its defense budget to the 2 percent mark. Currently, Solvenia allocates approximately 1.5 percent of GDP for its armed forces.

During my time in Slovenia I had the opportunity to visit with President Milan Kucan, who I have known for

many years. We discussed the country's work to join NATO, as well as its progress in efforts to prepare for membership in the European Union. With regard to public opinion, President Kucan indicated that public support for NATO is not a problem. He said people want to discuss the implications of membership in the Alliance and debate the merits of joining NATO. We also discussed Solvenia's progress on military reforms, as well as the country's interest in working to promote security and stability in southeast Europe.

I again discussed these issues and found the same enthusiasm for Slovenia's membership in NATO and the European Union with members of the Slovenian parliament, including the President of Parliament Borut Pahor, President of the Foreign Affairs Committee Jelko Kacin and President of the Defense Committee Doran Marsic. Even the opposition expressed a solid commitment to moving forward with efforts to join the NATO Alliance. During consideration of a resolution on whether or not to have a national referendum on Slovenia's membership in NATO before the Prague summit, there was a very strong consensus that this should not happen until after the November meeting—with 63 agreeing that this should not happen immediately, with 9 opposing.

I also discussed these issues with Prime Minister Janez Drnovšek, who has recently announced his intention to run for President of Slovenia, as well as Minister of Defense Anton Grizold. Additionally, I visited with our ambassador, John Young, and discussed the country's strong candidacy for membership in both NATO and the European Union. I am hopeful that public support for NATO membership will continue to grow, and I am glad that this will be an enlightened decision in Slovenia given the high level of discussion on the issue.

Following meetings in Slovenia on Friday, May 31, 2002, I traveled to Brussels to visit with our Ambassador to NATO, Nick Burns, and the director of Javier Solana's Balkans Task Force, Mr. Stefan Lehne.

During my meeting with Stefan Lehne, I discussed my long interest in southeast Europe and impressions from my recent visits to Macedonia and Kosovo. I spoke with him about my strong concern with political situation in Macedonia, and urged the European Union to remain involved in efforts to bring all parties to the table to discuss disagreements over the order between Macedonia and Kosovo. I also told him I believe it is essential that the international community do everything in its power to encourage the Macedonian government to remain committed to free and fair parliamentary elections scheduled for this September.

We also discussed my interest in the Stability Pact—in particular, the Stability Pact's Quick Start Infrastructure Projects. I believe it is critical that the Pact make its intentions clear on the Quick Start projects.

Finally, we discussed my concern with organized crime, corruption and trafficking in human beings, drugs and weapons that plague many countries in central and eastern Europe. I encouraged Mr. Lehne to make these problems a top priority, as they undermine efforts on behalf of the international community to promote democratic reforms and respect for the rule of law in many of Europe's new democracies.

With Ambassador Nick Burns, I discussed my interest in NATO enlargement and observations from my visits to Bulgaria, Macedonia, Slovakida and Slovenia. While I share the vision of President Bush for a large round of enlargement in Prague, I expressed to Ambassador Burns my strong concern with the need for continued action in candidate countries.

As we approach Prague, we must decide whether each candidate country has gone for enough to take the necessary steps to join the Alliance. And as we answer that question, we will also ask whether or not action is still needed, and whether reforms are best encouraged if that country is extended an invitation at Prague, or if that country is instead asked to continue reforms while looking toward the next round of enlargement. These will be difficult questions, and we must be prepared to answer them.

I look forward to continued discussion with the administration and my colleagues in the Senate on NATO enlargement in the months ahead, and I encourage NATO aspirant countries to take as many steps as they can between now and November to address issues outlined in their respective Membership Action Plans.

Additionally, I will continue to be active and involved in the Senate on issues affecting southeast Europe. We had a very productive Helsinki Commission hearing to examine the situation for ethnic minorities in Kosovo earlier this month, and I will continue to discuss this issue when I participate in the annual meeting of the OSCE Parliamentary Assembly next week.

ADDITIONAL STATEMENTS

CHILDREN'S AID SOCIETY OF SOUTHEASTERN MICHIGAN CELEBRATES 140TH ANNIVERSARY

• Mr. LEVIN. Mr. President, I would like to congratulate the Children's Aid Society of Southeastern Michigan (CAS) on its 140th anniversary. In that time CAS has been an organization dedicated in service to children, youth, and families. For nearly a century and a half, CAS has been a dynamic and compassionate presence in the Michigan community.

CAS, the oldest child welfare agency in Michigan, is a non-profit, non-sectarian private organization dedicated to the preservation and quality of family life in Southeastern Michigan based in Detroit. Begun in 1862 by members of the Presbyterian Church to help Civil War orphans, CAS has expanded in the years since to help hundreds of thousands of troubled children and families. CAS aims to build strength within the family unit by providing a variety of comprehensive child and family-focused services, seeking to create the foundation for a better and healthier society.

The services that CAS provides are innovative and humanistic, viewing each individual and problem as unique. For example, the Work Works program gives high-risk youth between the ages of 13 and 17 training in employment skills and helps them in finding a job. Alumni of the program help other staff teach the skills of positive self-esteem, work ethics, and job readiness. Another program, Moving Families in the Right Direction, aims to prevent delinquency and school dropout by strengthening family functioning and relationships. Staff go into homes, schools, and the community to conduct counseling sessions and group work with youth between the ages of 10 and 17 who have been referred to them by the Police Department or Juvenile Court. By giving at-risk children and families early attention, CAS tries to help prevent the family break-up and juvenile delinquency that plagues so much of our country today. CAS also provides day care and has programs for early childhood education, mental health, child abuse, teen families, and parents.

Southeastern Michigan and the larger Detroit metropolitan area are deeply indebted to the work CAS has done for families and children over the last 140 years. Year in and year out CAS has fought to hold families together and ensure the welfare of children. The vital support services that CAS provides help children and parents deal with the difficult personal and societal issues they face in the 21st century. Having performed these important social services for over 140 years is indeed a tremendous accomplishment and deserves hearty commendation.

I know my Senate colleagues will join me in congratulating the Children's Aid Society of Southeastern Michigan for 140 years of success and in wishing it a fruitful future that only adds to its rich legacy of compassion.•

EDS' 40TH ANNIVERSARY

• Mrs. HUTCHISON. Mr. President. I extend my congratulations to EDS and to its employees on the company's 40th anniversary. On June 27, 1962, Electronic Data Systems was incorporated in Texas, and EDS is still headquartered in Plano, TX. The company's initial goal was simply to help companies use their computers more effectively. Since then, EDS has been a leader in the information-technology services industry.

EDS has flourished by adapting to its clients' needs and by providing information-technology and business-consulting services to every sector of the

global economy. Evolving from a staff of fewer than 30 to a team of more than 140,000 employees in 50 States and more than 60 countries, EDS helps companies to excel in the digital economy.

In the 1960s, when the business world's use of computers was still novel, EDS recognized an opportunity to help companies use their computers effectively. In the 1970s, EDS expanded into new international markets, which today include some of its fastest-growing opportunities. Over the last two decades, personal computers and Web-based business models have changed the way people and businesses interact and access information. EDS has worked to ensure the strategic technological alignment of its clients in light of these developments.

EDS prides itself on consistently demonstrating resourcefulness and innovation, such as in aiding disaster recovery and providing information security in business continuity efforts. Responding quickly to unmet needs is a hallmark of successful businesses, such as EDS.

I commend EDS for its vitality and innovation, and send the people of EDS best wishes for the future.●

THE VANNEVAR BUSH AWARD FOR SCIENCE AND TECHNOLOGY TO ERICH BLOCH

● Mr. LIEBERMAN. Mr. President, I rise to bring to my colleagues' attention the fact that the National Science Board, NSB, has honored Erich Bloch as the 24th recipient of the Vannevar Bush Award for Science and Technology, its highest award for scientific achievement and statesmanship. Mr. Bloch's record of innovation and leadership in the advanced technology sector and the immense impact that his career has had on the field make him especially deserving of lofty praise. He received the award on May 7 in Washington, DC.

Mr. Bloch is a member of the President's Council of Advisors on Science and Technology, a distinguished fellow at the Council on Competitiveness, a former director of the National Science Foundation, and an outspoken supporter of fundamental research in leading innovation. He occupies a senior statesman status in science and engineering and has been a longtime supporter of science and mathematics education programs funded by the Federal government.

Erich Bloch is a visionary innovator of enormous stature—in both high technology for the private sector—and in the organization and objectives of science and engineering research,'' Eamon Kelly, National Science Board chair, stated in announcing the honor. ''He has been an exceptionally effective communicator of the benefits of public funding for science and technology, and a leader in establishing widely emulated mechanisms for productive partnerships in research and education across public, academic, and private sectors.

Before moving to Washington to become the National Science Foundation's only director from industry, Mr. Bloch was a famed electrical engineer at IBM and was one of the key figures responsible for IBM's STRETCH Computer Systems Engineering Project and in the groundbreaking developments of the IBM Systems 360. Until the 1960s, every computer model was generally designed independently, and at times individual machines were custom modified for a particular customer. The advent of the IBM–360 family of computers changed this forever. All these machines had the same user instruction set, taking advantage of IBM's engineering leadership in powerful disk drive systems. On the smaller machines, many of the more complex instructions were done in microcode rather than in hardware. Mr. Bloch headed IBM's development of the solid logic technology program, which provided IBM with the microelectronics technology for the System/360. Mr. Bloch's leadership ability was one of the key reasons for the success of the System/360. His strategy was to work around organizational structures and, as technical problems were identified, to assign groups or individuals who offered the best proposals. Mr. Bloch was the first to develop an IBM product with a ferrite core memory—a significant achievement in the search for memory technology. Mr. Bloch's accomplishments on the system, and the developments that occurred as part of his management style, helped revolutionize the computer industry and led to his receiving the 1985 National Medal of Technology with his IBM colleagues, Frederick P. Brooks, Jr. and Bob O. Evans.

In his 6-year term as NSF director, Erich Bloch built national support for advances in high-performance computing and networking. Mr. Bloch's important leadership in transitioning NSFNET to a commercialized Internet helped create an immense economic and societal impact from the 1990s to today. Mr. Bloch supported NSF's take over of the Defense Department's ARPANET, creating the government-owned and managed NSFNET connected to five university-based supercomputer centers via a 56–Kbps backbone. NSFNET replaced ARPANET in 1990 and expanded to include a variety of regional networks that linked universities into the backbone network. The only other wide-area networks in existence, all government owned, supported only limited numbers of specialized contractors and researchers. Mr. Bloch supported key colleagues at NSF, like Steve Wolff, and they had the vision to see the power of networking in the academic and research communities, and in the process created a powerful user base, the first real customer base, that would not let the networking revolution stop. Just 10 years later, the Internet was ''owned'' by no one and managed by a wide variety of commercial and nonprofit organizations on a decentralized basis. NSFNET's backbone operated at 45 Mbps, which was raised to 155 Mbps after NSFNET was decommissioned. NSFNET was decommissioned in 1995 when there was enough commercial Internet service providers, web browsers, and search engines to sustain the networks, operations, and management—nearly 60,000 networks were connected to the backbone. Now, 61.4 percent of the U.S. population has online access according to the latest Nielsen Net Ratings.

According to a report published by the policy division of non-profit corporation SRI International entitled ''The Role of NSF's Support of engineering in Enabling Technological Innovation,'' Erich Bloch played an important leadership role in three key decisions that spurred today's Internet. First, he influenced the NSF decision to make NSFNET an ''open'' network rather than one that served supercomputer researchers exclusively. NSF decided to make NSFNET a three-tiered, distributed network consisting of backbone, regional or mid-level networks, and local, initially campus-based, networks. Finally, NSF decided to make the Internet self-supporting, and a series of decisions Mr. Bloch backed concerning the implementation of the self-supporting Internet led to its burgeoning. DARPA in the '70's developed the prototype for the Internet, ARPANET. Assisted by Erich Bloch's leadership, NSF played a crucial role in transitioning NSFNET in the 1980s into the remarkable Internet system so important to us today.

Internet innovation was not Mr. Bloch's only role at NSF. Before his arrival at NSF, the agency largely saw computing as a research tool for existing science disciplines. As detailed in the book, ''Funding the Revolution'' by the National Research Council, Mr. Bloch treated computing as a new scientific field in its own right, both a new science and an interdisciplinary science connector. Mr. Bloch created a new science directorate at NSF entirely for computing, consolidating all of NSF's computing initiatives in one place, and recruited another famed computer pioneer, Gordon Bell of DEC, to head it up. Computer science was now on a par with the established physical and biological sciences and budgeting at NSF grew from $23 million in 1984 to $100 million in 1986 and has continued to rise since then. While NSF had followed distantly behind DARPA's leadership in computing, under Erich Bloch it came into its own and began sponsoring important scientific computing advances.

Erich Bloch has always realized government's significant role in technology development, in coordination with the academic and commercial sectors. In receiving this award, he acknowledged that, ''we have learned that in these days of rapid development and keen competition much is to be gained from cooperative activities.'' He continued that, ''the global market is a reality'' due to the development of

computers, communication networks and IT. ''This paradigm change has pushed science and technology to the forefront of policy issues and policy considerations, here and across the globe.''

Along with Erich Bloch's key contributions to computing and the Internet and his foresightedness in matters of public policy, he deserves acclaim for the role that he has played in education. His creation of the NSF engineering research centers and science and technology centers reflect his belief in knowledge transfer. He brought together university scientists and industry researchers to provide educational benefits and help transform engineering education as well as to extend fundamental research benefits to industry. In education, Mr. Bloch also oversaw NSF's support of system wide reform for K–12 math and science education, including emphasis on participation by women and minorities in science and engineering. During his tenure, the budget for education and human resources more than tripled and NSF's overall budget increased to $2 billion.

As a distinguished fellow with the Council on Competitiveness, a private, non-profit organization dedicated to furthering U.S. economic leadership, Mr. Bloch continues to advocate policies that promote the effective use of innovation in the development of the U.S. economy. He is also a member of the President's Council of Advisors on Science and Technology, has been a distinguished visiting professor at George Mason University, has been awarded 13 honorary degrees from major universities and ten major awards and medals, and serves as a member of numerous boards in both the public and private sectors.

For his remarkable vision, innovation, and continued contributions to the advanced technology sector and to the national interest in the economy and education, Erich Bloch is most deserving of the venerable Vannevar Bush Award. Very few can boast of having made similar contributions to society. I am delighted to bring this honor to the attention of my colleagues, awarded to a computer and Internet pioneer, a visionary research administrator and science educator, to the attention of my colleagues and to express my sincere congratulations to Mr. Bloch.●

ANTI-SEMITISM IN EUROPE

● Mr. SMITH of Oregon. Mr. President, I rise today to call attention to an editorial in today's Washington Post. Anti-Defamation League Director Abe Forman has written an excellent piece on the recent wave of anti-Semitism in Europe. The Anti-Defamation League today released a telling survey on anti-Semitic attitudes in America and abroad and the results are nothing less than chilling. I would call on all my colleagues to take a look at this important survey and recommit ourselves to stopping all prejudice—particularly anti-Semitism both here and in Europe.

I ask to have today's editorial by Abe Foxman printed in the RECORD.

The editorial follows:

EUROPE'S ANTI-ISRAEL EXCUSE

(By Abraham H. Foxman—Thursday, June 27, 2002)

Throughout history a constant barometer for judging the level of hate and exclusion vs. the level of freedom and democracy in any society has been anti-Semitism—how a country treats its Jewish citizens. Jews have been persecuted and delegitimized throughout history because of their perceived differences. Any society that can understand and accept Jews is typically more democratic, more open and accepting of ''the other.'' The predictor has held true throughout the ages.

During the Holocaust, Jews and other minorities of Europe were dispatched to the camps and, ultimately, their deaths in an environment rife with anti-Semitism. Nearly 60 years later in a modern, democratic Europe that presumably had shed itself of the legacy of that era, Jews have again come under attack. During the past year and a half a troubling epidemic of anti-Jewish hatred, not isolated to any one country or community, has produced a climate of intimidation and fear in the Jewish communities of Europe. Never, as a Holocaust survivor, did I believe we would witness another eruption of anti-Semitism of such magnitude, in Europe of all places. But the resiliency of anti-Semitism is unparalleled. It rears its ugly head in far-flung places, like Malaysia and Japan, where there are no Jews.

The Anti-Defamation League has been taking the pulse of anti-Semitism in America for more than 40 years. Never did I expect that we would have to do the same in Europe, given the history and our expectation that European anti-Semitism, while not eradicated, would be so marginal and so rejected that it would not be a major concern.

What we found in the countries we surveyed—Britain, France, Germany, Belgium, and Denmark—was shocking and disturbing. Classical anti-Semitism, coupled with a new form fueled by anti-Israel sentiment, has become a potent and dangerous mix in countries with enormous Muslim and Arab populations.

More than 1 million Jews live in these five nations, and their communities are under siege. Who would have believed that we would see the burning of synagogues and attacks on Jewish students, rabbis, Jewish institutions and Jewish-owned property?

While European leaders have attempted to explain away these attacks as a fleeting response to events in the Middle East and not the harbinger of a more insidious and deeply ingrained hatred, the attitudes of average Europeans paint a far different picture. Among the 2,500 people polled in late May and early June as part of our survey, 45 percent admitted to their perception that Jews are more loyal to Israel than their own country, while 30 percent agreed with the statement that Jews have too much power in the business world. Perhaps most telling, 62 percent said they believe the outbreak of anti-Semitic violence in Europe is the result of anti-Israel sentiment, not anti-Jewish feeling. The contrariness of their own attitudes suggest that Europeans are loath to admit that hatred of Jews is making a comeback.

This view may make Europeans more comfortable in the face of what is happening in their countries, by suggesting that this time around, Jews are not the innocent victims but are themselves the victimizers in the Middle East. But the incredibly biased reaction against Israel seen in the poll—despite the fact that Israel under former prime minister Ehud Barak offered the Palestinians an independent state, and despite the fact that Palestinians have carried out a sustained campaign of terrorism against Israeli civilians—speaks to a repressed hostility to Jews that may not be socially acceptable in post-Holocaust Europe. Still, even with such constraints, some 30 percent of Europeans are not averse to expressing their anti-Semitic beliefs openly and directly.

Meanwhile, the Europeans have been tepid in their support for the U.S. war on terrorism and especially the Bush administration's efforts to broker an end to Israeli-Palestinian bloodshed. The Europeans seek to appease Saddam Hussein and other threats to the Western world while blaming Israel, not the Palestinian Authority, for the crisis. All while they minimize the extent of anti-Semitism in Europe and fail to immediately condemn horrific acts of harassment and vandalism. The message to Europe's burgeoning immigrant population is that there is a certain level of acceptance for intolerance.

It is time for Europe to assume responsibility for a situation of its own making. The combination of significant, openly expressed anti-Jewish bias together with irrational anti-Israel opinions creates a climate of great concern for the Jews of Europe. It is not surprising that in such an atmosphere Muslim residents feel free to attack Jewish students and religious institutions not because they are Israelis but because they are Jews. And it is not surprising that some European officials have begun telling Jewish leaders to advise their numbers to avoid public displays of Jewishness, instead of promising to protect their Jewish communities.

European leaders and officials must see what is going on for what it is—outright anti-Semitism—and condemn the revival of this ancient hatred that had its greatest manifestations on the same continent.

They must acknowledge that the anti-Israel vilification across Western Europe is unacceptable. The recent comparisons of Israelis to Nazis, to Jews as the executors of ''massacres'' and even as the killers of Christ—these do not fall into the category of legitimate criticism of a sovereign state. They create the very climate that questions the future of Jewish life in Europe.●

PASSING OF JUSTIN W. DART, JR.

● Mr. KENNEDY. Mr. President, I rise today to give tribute to the memory of Justin W. Dart, Jr., the greatest warrior in the fight for the rights of disabled persons. After nearly half a century of tireless advocacy for the civil rights of oppressed people in America and around the world, my friend Justin Dart passed away on Saturday with his wife and partner Yoshiko Dart at his side.

He was often called the Martin Luther King of the disability rights movement even though he called himself ''just a foot soldier for the cause of freedom.'' Justin received five Presidential appointments, and was awarded the Presidential Medal of Freedom, our Nation's highest civilian honor. And without Justin, the Americans with Disabilities Act would never have become the law of the land. Justin's dedication to his vision of a ''revolution of

empowerment'' brought together a fragmented community to march for freedom for Americans with disabilities. He taught us that disabled does not mean unable.

When President Bush signed the Americans with Disabilities Act into law and gave the first pen to Justin, he protested the fact that only three disability activists were on the podium, because he believed that the ADA would never have been accomplished without the power of hundreds of people with disabilities who made the difference. When he finally received the Presidential Medal of Freedom, Justin sent out replicas of this award to hundreds of disability rights activists across the country, writing that ''this award belongs to you.''

Even in his final words to us he talks of the power and importance of equal rights for all people. Disabled people across the country and around the world owe a great debt to Justin Dart for his love and his commitment to Justice. He is a hero not just to those with disabilities, but to all of us who learned from him and served with him in the great causes he inspired.

As President Kennedy once said, ''As the dust of centuries has passed over our cities, we too will be remembered, not for our victories or defeats in battle or in politics, but for our contribution to the human spirit.'' Justin Dart brought the human spirit of the disability movement to life, and his spirit will live on through the lives of those he touched.●

HEROES OF OPERATION ENDURING FREEDOM

● Mr. MURKOWSKI. Mr. President, I am pleased to insert in the RECORD the heroic accounts of the 354th Wing and 18th Fighter Squadron at Eielson Air Force Base in Anchorage, AK, for the vital role they played in Operation Enduring Freedom.

The accounts that follow describe the daring mission of three pilots who were involved in a difficult rescue operation. Both Alaska, and the Nation, appreciate and honor their heroism that helped to save lives. I, along with my fellow colleagues, am extremely proud of our men and women who are at this very moment, much like the 354th Wing and 18th Fighter Squadron were doing, defending freedom and democracy around the world.

Today we are a nation at war. A war against the evil of terrorism. Make no mistake, there are evil people in this world. There are people whose sole purpose on this earth is to harm and kill innocent people. Let us not forget what happened in our country just a short time ago. America's freedom, our freedom, the freedom of this Chamber and of millions of people all over the world, are protected by the men and women who serve in the armed forces.

It is with utmost respect and appreciation that I share the heroic events that took place during Operation Enduring Freedom. But before I do, let me personally comment on why lives were saved based upon the acts of three fine soldiers. It all comes down to training. Our military has an extraordinary ability to prepare our soldiers for battle. Our soldiers are the best in the world. I commend the armed forces for preparing our soldiers for battle and for bringing them home safely. It is no coincidence that our soldiers, who face grave and dire situations, prevail.

Thirty nine lives were saved because of the actions of Lieutenant Colonel Burt A. Bartley, Captain James R. Sears, Jr. and Captain Andrew J. Lipina. The tale of this mission surely seems unreal. A MH–47 helicopter was shot out of the sky. The enemy was fast closing on the downed helicopter where 10 injured soldiers were in need of immediate medical attention. Time was of the essence. Instantly, a rescue operation was put into motion. And this was no simple rescue.

When the enemy is armed and looking to kill, it is imperative that all available resources are put to their maximum utilization. After all available artillery were depleted, a 500 pound bomb was dropped within 100 meters of the crash site, creating a barrier between the wounded soldiers and the advancing enemy. 100 meters, the length of a football field. This allowed the rescue operation to be successfully carried out. As you will read, this was America at its best. I applaud the heroism and bravery of all those involved in this daring rescue.

I ask that the summary of the heroic actions of the 354th Wing and 18th Fighter Squadron at Eielson Air Force Base, be printed in the RECORD.

The material follows:

CITATION TO ACCOMPANY THE AWARD OF THE SILVER STAR TO BURT A. BARTLEY

Lieutenant Colonel Burt A. Bartley distinguished himself by heroism and courageous action as F–16CG flight lead, 18 Fighter Squadron, in support of Operation ENDURING FREEDOM. Upon learning of a downed MH–47 helicopter, Lieutenant Colonel Bartley departed assigned airspace to immediately support the recovery of thirty-nine personnel on board. Enroute to the site, Lieutenant Colonel Bartley established deconfliction with two Unnammed Aerial Vehicles (UAV) and two F–15Es near the crash site to provide maximum support to the rescue effort. With the F–15Es out of ammunition, Lieutenant Colonel Bartley immediately employed 20mm cannon fire to neutralize the enemy troops that were directly firing upon the survivors. He made two strafing runs with little regard for his own safety into rapidly rising mountaineous terrain, and directly in the face of the same small arms fire that downed the helicopter. He then provided a rapid talk-on to his wingman, who was experiencing radio problems, to suppress the advancing enemy troops. His skill and determination forced the enemy troops to stop the attack on the downed helicopter crew and friendly forces and concentrate on digging in for cover approximately 50 meters from the crashed MH–47. After expending all 500 rounds of 20mm ammunition he stayed with the Ground Forward Air Controller (GFAC) on the radio while his wingman passed all critical information to command and control assets and located the tanker. His actions resulted in the flight's ability to maintain continuous contact with the GFAC and continue to threaten the advancing enemy forces for over two and a half hours. Upon returning to the crash site, the GFAC reported that the previously pinned down enemy had begun to close in on their position again. After his wingman had verified from command and control that no other airborne assets had 20mm or light ordnance, Lieutenant Colonel Bartley informed the GFAC of the impending danger and at the GFAC's request dropped 500 pound bombs within 100 meters of the crash site in order to keep the enemy forces at bay. Meanwhile, a second GFAC reported two more critically wounded soldiers requiring immediate evacuation. Lieutenant Colonel Bartley pinned down the enemy, and directed his wingman to coordinate for the air evacuation. He offered to escort the helicopters through the area with numerous small arms threats and Rocket Propelled Grenards. His quick thinking and superior coordination allowed friendly forces to maintain a secure location in extremely close proxmity to the impact points and undoubtedly saved the lives of 21 uninjured survivors and 10 wounded in the crash site, and enabled the safe recovery of all 39 Americans. The undaunted leadership, extreme heroism and courageous actions of Lieutenant Colonel Bartley are consistent with the highest traditions of the United States Air Force.

ANDREW J. LIPINA: DISTINGUISHED FLYING CROSS NARRATIVE

Captain Andrew J. Lipina distinguished himself by extraordinary heroism and gallantry in action as F–16CG fighter pilot, 18th Expeditionary Fighter Squadron, in support of Operation ENDURING FREEDOM. During the third day of Operation ANACONDA, Captain Lipina learned of a downed MH–47 helicopter with the survivors actively taking fire, and departed assigned airspace to immediately support the recovery effort. Thirty-nine personnel were on board when a Rocket Propelled Grenade (RPG) attack disabled their aircraft. Enroute to the site Captain Lipina quickly took control of external communication and coordinated with command and control assets to relocate air refueling tanker assets to support the rescue effort. He further deconflicted with two Unmanned Aerial Vehicles (UAV) and two F–15Es near the crash site. His formation quickly coordinated with the Ground Forward Air Controller (GFAC) to establish situational awareness. With the F–15E out of ammunition, Captain Lipina immediately employed 20mm cannon fire to neutralize the enemy troops that were directly firing upon the survivors from within 100 meters. He made two strafing runs, each closer to the crash site than the previous, with little regard for his own safety in order to help protect them from being overrun. These strafing passes were not only into rapidly rising mountainous terrain, but also directly in the face of the same small arms that downed the helicopter. His skill and determination forced the enemy troops to stop the attack on the downed helicopter crew and friendly forces and concentrate on digging in under the cover of a tree located approximately 50 meters from the crashed MH–47. After expending all 500 rounds of 20mm ammunition he coordinated with command and control assets to inform them of the disposition of friendly casualties and the location of their tanker. With their assigned tanker experiencing a air-refueling malfunction, Captain Lipina rapidly pointed the formation to the next closest tanker and masterfully coordinated to move it toward the crash site. Upon returning to the crash site from air refueling, the GFAC reported that the previously

pinned down enemy had begun to close in on their position again. His actions resulted in the flight's ability to maintain continuous contact with the GFAC and continue to threaten the advancing enemy forces for over two and a half hours. After he had verified from command and control that no other airborne assets had 20mm or light ordnance, Captain Lipina's flight lead dropped 500 pound bombs within 100 meters of the crash site in order to keep the enemy forces at bay. Captain Lipina expertly sanitized the area for MANPADS and anti-aircraft artillery in the hostile and hazardous region of the downed helicopter. This was extremely important since a previous flight has been engaged by MANPADS. Meanwhile a second GFAC reported two critically wounded soldiers requiring immediate air evacuation. While his lead continued to work on pinning down the enemy, Captain Lipina began to coordinate for the air evacuation and offered his remaining bombs to escort the rescue helicopters through an area with numerous small arms and RPG threats. Additionally, he coordinated for other assets to move into position to support the survivors on the ground. The undaunted courage and heroism of Captain Lipina undoubtely saved the lives of 21 uninjured survivors and 10 wounded in the crash site and enabled the safe recovery of all 39 Americans.

JAMES R. SEARS JR.: DISTINGUISHED FLYING CROSS NARRATIVE

Captain James R. Sears Jr. distinguished himself by heroism and extraordinary achievement while participating in aerial flight as F–16CG flight lead, 18th Expeditionary Fighter Squadron on 20 January 2002. Captain Sears distinguished himself as On Scene Commander for a downed CH–53 in a heavily defended area of Taliban control in Northern Afghanistan during Operation ENDURING FREEDOM. During the Combat Search and Rescue he organized, directed, and controlled a total of 13 aircraft including three Unmanned Aerial Vehicles, five helicopters, one C–130, two F–16s, and two F–18s. He rapidly developed a deconfliction plan that ensured the safety of all assets and allowed them to operate within a five nautical mile radius of the downed helicopter.

After receiving the initial coordinates of the crash site he realized they were over one nautical mile off the actual location in heavily mountainous terrain. After a diligent, methodical search of the area, Captain Sears was able to get his eyes on the site, provide a perfect talk-on for his wingman, and direct the other support assets to the crash site. Using on-board sensors, Captain Sears was quickly able to pass updated coordinates to the thousandth of a degree to command and control agencies without compromising the safety of the entire rescue operation. He expertly sanitized the 60 nautical mile ingress and egress route through enemy territory.

Captain Sears then executed the demanding task of rescue escort for two helicopters. This involved maintaining visual contact and constant coverage while flying over 300 knots faster and being 15,000 feet higher than the helicopters. Captain Sears, in conjunction with command and control assets, coordinated a plan to move three separate tankers close enough to the crash site to ensure constant command for the entire time on scene. Captain Sears' flawless flight leadership allowed him to intercept and visually identify a Red Cross aircraft flying in the vicinity of the downed helicopter, not identifiable by electronic means or talking to command and control assets, ensuring the safety of the entire rescue effort. Captain Sears passed off On Scene Commander duties to two United States Navy F–18s after 4.5 hours on scene. Captain Sears' tireless efforts and tremendous focus was unprecedented considering in his single-seat F-16 he flew more than 3500 miles, logged 11.1 hours, and ten air refuelings requiring more than 120,000 pounds of fuel to be onloaded through hostile territory. Captain Sears' courage, superior airmanship, and unwavering devotion to duty in the face of personal danger were instrumental in accomplishing this hazardous mission and were in keeping with the highest traditions of the U.S. Air Force.●

TO JAN OMUNDSON AND PAM ELJ

● Mr. DAYTON. Mr. President, on many occasions in the past year and a half, I have come to the floor on behalf of steelworkers and their families who live on Minnesota's Iron Range in northeastern Minnesota. Like other steel-producing regions, the Iron Range has been hard hit by unfair foreign imports, devastating the United States steel and iron ore industries. And last year, Minnesota's Iron Range economy was rocked by the bankruptcy and closure of the LTV Steel Mining Company in Hoyt Lakes.

When the LTV Steel Mining Company closed, 1,400 employees were thrown out of work. Many of these men and women had dedicated their entire working lives to LTV. They are hardworking people with families and bills to pay. In addition to the layoffs, 1,700 retirees lost portions of their pensions and all of their health insurance and life insurance.

But if you know anything about Minnesota, you understand that in hard times we pull together and we persevere. This is especially true about the hardworking people of the Iron Range.

Today, I'd like to recognize two very unselfish Minnesotans, Jan Omundson and Pam Elj, who have gone above and beyond the call of normal duty to help the people hurt by the LTV closing.

For the past 3 months, Jan and Pam traveled more than 160 round-trip miles each day, from the Cities of Duluth and Virginia respectively, to help hundreds of displaced LTV employees and retirees understand their health care options. When an economic tragedy like this strikes a community, it's often a very painful, stressful, and confusing time for the families affected. Thanks to Jan and Pam, people affected now have a much better understanding of their benefits and their rights.

In her role as coordinator of the Arrowhead Area Agency on Aging's State Health Insurance Assistance Program, Jan Omundson led this team effort by organizing dozens of informational meetings to educate displaced LTV workers and retirees regarding their options. She was assisted by Pam Elj, who is a counselor with the Arrowhead Economic Opportunity Agency's Senior Insurance Advocacy Program. Together, they met with hundreds of retirees, displaced workers, and their families and outlined detailed and valuable information about options for health care coverage.

Jan and Pam were key to the success of this effort and it would not have been possible without the support and resources of the Arrowhead Regional Development Commission, the Arrowhead Economic Opportunity Agency, the Hoyt Lakes Community Credit Union, the City of Biwabik, and Blue Cross/Blue Shield of Minnesota.

I thank them all for their dedication and assistance during this very difficult time.●

COMMUNITY HERO

● Mr. SMITH of Oregon. Mr. President, today I salute a community leader in my home State of Oregon. I want to recognize the efforts of Susan Abravanel, Education Coordinator at SOLV, a nonprofit organization in Oregon, in advocating for service-learning, one of the most exciting educational initiatives taking hold in our Nation today.

Service-learning gives students the opportunity to learn through community service, but it is important to note that it is much more than just community service. It is a method of classroom instruction that engages a student's intellect through hands-on work outside the classroom that benefits the community at large. Research shows that students participating in service-learning make gains on achievement tests, complete their homework more often, and increase their grade point averages.

In addition to producing academic gains, service-learning is also associated with both increased attendance and reduced dropout rates. It is clear to educators across the country that service-learning helps students feel more connected to their own education while strengthening their connection to their community as well. It is for all of these reasons that Susan Abravanel is working so hard to advocate for service-learning in classrooms in Oregon and across the nation.

Ms. Abravanel is working closely with my office and with education leaders in Oregon to ensure that my home state remains a national leader in service-learning. Just 2 months ago, I introduced a bill with my colleague, Senator EDWARDS, to strengthen our Nation's commitment to service-learning. I feel confident that this bill will soon become law and that with Ms. Abravanel's continued efforts both here in Washington, DC and at home in Oregon, students will continue to benefit from an education tied to civic engagement.

Ms. Abravanel exemplifies the type of engaged citizen our schools must endeavor to produce, and her persistence will ensure that future generations of Americans will give back to their communities just as she has. I would also like to note that Susan isn't just concerned about education, her interests and efforts in Portland's Jewish community are well known and highly appreciated, she is the new President of

the Oregon chapter of the American Jewish Committee. I look forward to working with Susan in her new role at the AJC and thank her for her continuing devotion to service-learning.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:29 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3180. An act to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact.

H.R. 3764. An act to authorize appropriations for the Securities and Exchange Commission.

H.R. 4070. An act to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

H.R. 4477. An act to amend title 18, United States Code, with respect to crimes involving the transportation of persons and sex tourism.

H.R. 4598. An act to provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities.

H.R. 5018. An act to direct the Capitol Police Board to take steps to promote the retention of current officers and members of the Capitol Police and the recruitment of new officers and members of the Capitol Police, and for other purposes.

The message also announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members to be the mangers of the conference on the part of the House:

From the Committee on Ways and Means, for consideration of the House amendment and the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. CRANE, and Mr. RANGEL.

From the Committee on Education and the Workforce, for consideration of section 603 of the Senate amendment, and modifications committed to conference: Mr. BOEHNER, Mr. SAM JOHNSON of Texas, and Mr. GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of section 603 of the Senate amendment, and modifications committed to conference: Mr. TAUZIN, Mr. BILIRAKIS, and Mr. DINGELL.

MEASURES REFERRED

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

H.R. 3180. An act to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact; to the Committee on the Judiciary.

H.R. 3764. An act to authorize appropriations for the Securities and Exchange Commission; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4070. An act to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes; to the Committee on Finance.

H.R. 4477. An act to amend title 18, United States Code, with respect to crimes involving the transportation of persons and sex tourism; to the Committee on the Judiciary.

H.R. 4598. An act to provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 3937. An act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3389. An act to reauthorize the National Sea Grant College Program Act, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–7621. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hydrogen Peroxide; An Amendment to an Exemption from the Requirement of a Tolerance; Technical Correction'' (FRL6835–3) received on June 18, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7622. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pesticide Tolerance Nomenclature Changes: Technical Amendment'' (FRL6835–2) received on June 18, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7623. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pesticide Tolerance Nomenclature Changes; Technical Amendment'' (FRL7180–1) received on June 18, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7624. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Rambutan, Longan, and Litchi from Hawaii'' (Doc. No. 98–127–2) received on June 24, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7625. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Citrus Canker; Packing in the Quarantined Area'' (Doc. No. 99–080–2) received on June 24, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7626. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Pine Shoot Beetle; Addition to Quarantined Areas'' (Doc. No. 02–017–1) received on June 24, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7627. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Gypsy Moth Generally Infested Areas'' (Doc. No. 02–053–1) received on June 24, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7628. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report on the profitability of the credit card operations of depository institutions for the year 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–7629. A communication from the Senior Paralegal, Regulations, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Capital: Qualifying Mortgage Loan, Interest Rate Risk Component, and Miscellaneous Changes'' (RIN1550–AB45) received on June 20, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–7630. A communication from the Senior Paralegal, Regulations, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Risk-Based Capital Standards: Claims on Securities Firms'' (RIN1550–AB11) received on June 20, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–7631. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled ''International Banking Activities: Capital Equivalency Deposits'' (12 CFR Part 28) received on June 24, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–7632. A communication from the Assistant to the Board of Governors of the Federal

Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Regulation C (Home Mortgage Disclosure)'' (Doc. No. R–1120) received on June 24, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–7633. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Commission Guidance on the Application of Certain Provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and Rules thereunder to Trading in Security Futures Products'' received on June 24, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–7634. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Commonwealth of Puerto Rico; Control of Emissions from Existing Hospital, Medical, and Infectious Waste Incinerators'' (FRL7232–4) received on June 18, 2002; to the Committee on Environment and Public Works.

EC–7635. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Louisiana; Control of Emissions of Volatile Organic Compounds from Industrial Wastewater Facilities'' (FRL7234–3) received on June 18, 2002; to the Committee on Environment and Public Works.

EC–7636. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Civil Monetary Penalty Inflation Adjustment Rule'' (FRL7231–7) received on June 18, 2002; to the Committee on Environment and Public Works.

EC–7637. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determination of Nonattainment as of November 15, 1999, and Reclassification of the Baton Rouge Ozone Nonattainment Area'' (FRL7235–9) received on June 18, 2002; to the Committee on Environment and Public Works.

EC–7638. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Determination that State has Corrected the Rule Deficiencies and Deferral of Sanctions, Ventura County Air Pollution Control District, State of California'' (FRL7235–7) received on June 18, 2002; to the Committee on Environment and Public Works.

EC–7639. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Wisconsin: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL7237–2) received on June 24, 2002; to the Committee on Environment and Public Works.

EC–7640. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to the California State Implementation Plan, South Coast Air Quality Management District'' (FRL7227–2) received on June 24, 2002; to the Committee on Environment and Public Works.

EC–7641. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District'' (FRL7227–6) received on June 24, 2002; to the Committee on Environment and Public Works.

EC–7642. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District'' (FRL7220–4) received on June 24, 2002; to the Committee on Environment and Public Works.

EC–7643. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Arizona'' (FRL7233–6) received on June 24, 2002; to the Committee on Environment and Public Works.

EC–7644. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; and Designation of Areas for Air Quality Planning Purposes: Arizona'' (FRL7233–5) received on June 24, 2002; to the Committee on Environment and Public Works.

EC–7645. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Sandpoint, Idaho, Air Quality Implementation Plan'' (FRL7232–1) received on June 24, 2002; to the Committee on Environment and Public Works.

EC–7646. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland Visible Emissions and Open Fire Amendments; Corrections'' (FRL7236–8) received on June 24, 2002; to the Committee on Environment and Public Works.

EC–7647. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Excess Volatile Organic Compound Emissions Fee Rule'' (FRL7226–8) received on June 24, 2002; to the Committee on Environment and Public Works.

EC–7648. A communication from the Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''NASA Grant and Cooperative Agreement Handbook—Miscellaneous Changes'' (14 CFR Part 1260) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7649. A communication from the Attorney-Advisor, Bureau of Transportation Statistics, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Air Carrier Traffic and Capacity Data by Nonstop Segment On-Flight Market'' (RIN2139–AA08) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7650. A communication from the Attorney-Advisor, Transportation Security Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Private Charter Security Rules'' (RIN2110–AA05) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7651. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Ohio River Miles 252.0 to 253.0, Middleport, Ohio'' ((RIN2115–AA97)(2002–0088)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7652. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Port of Tampa, FL'' ((RIN2115–AA97)(2002–0090)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7653. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; St. Croix, U.S. Virgin Islands'' ((RIN2115–AA97)(2002–0091)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7654. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; San Juan, Puerto Rico'' ((RIN2115–AA97)(2002–0092)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7655. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Buffalo River, Buffalo, NY'' ((RIN2115–AA97)(2002–0093)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7656. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Navy Pier, Lake Michigan, Chicago Harbor, IL'' ((RIN2115–AA97)(2002–0095)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7657. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Atlantic Avenue Bridge (SR 806), Atlantic Intracoastal Waterway, mile 1039.6, Delray Beach, FL'' ((RIN2115–AE47)(2002–0056)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7658. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Ohio River Miles 269.0 to 270.0, Gallipolis, Ohio'' ((RIN2115–AA97)(2002–0087)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7659. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Silver Dollar Casino Cup Hydroplane Races, Lake Washington, WA'' ((RIN2115–AA97)(2002–0089)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7660. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Long Island Sound Marine Inspection and Captain of the Port Zone'' ((RIN2115–AA97)(2002–0102)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7661. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; Naticoke River, Sharptown, MD'' ((RIN2115–AE46)(2002–0015)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7662. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Kill Van Kull Channel, Newark Bay Channel, South Elizabeth Channel, Elizabeth Channel, Port Newark Channel and New Jersey Pierhead Channel, New York and New Jersey'' ((RIN2115–AA97) (2002–0096)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7663. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Tampa Bay and Cyrstal River, FL'' ((RIN2115–AA97) (2002–0097)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7664. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; Back River, Hampton, Virginia'' ((RIN2115–AE46) (2002–0016)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7665. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Fort Vancouver Fireworks Display, Columbia River, Vancouver, Washington'' ((RIN2115–AA97) (2002–0098)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7666. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, California'' ((RIN2115–AA97) (2002–0099)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7667. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Ports of Jacksonville and Canaveral, FL'' ((RIN2115–AA97) (2002–0100)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7668. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Hatchett Creek (US 41), Gulf Intracoastal Waterway, Venice, Sarasota County, FL'' ((RIN2115–AE47) (2002–0057)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7669. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Atlantic Intracoastal Waterway, mile 1069.4 at Dania Beach, Broward County, FL'' ((RIN2115–AE47) (2002–0058)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7670. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Areas; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters'' ((RIN2115–AE84) (2002–0009)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7671. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Ohio River mile 34.6 to 35.1, Shippingport, Pennsylvania'' ((RIN2115–AA97) (2002–0101)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7672. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, Virginia'' ((RIN2115–AE46) (2002–0017)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7673. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; Northeast River, North East, Maryland'' ((RIN2115–AE46) (2002–0018)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7674. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; SAIL MOBILE 2002, Port of Mobile, Mobile, Alabama'' ((RIN2115–AE46) (2002–0019)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7675. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Racine Harbor, Lake Michigan, Racine, Wisconsin'' ((RIN2115–AA97) (2002–0094)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7676. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Requirements for Maintenance, Requalification, Repair and Use of DOT Specification Cylinders'' (RIN2137–AD58) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7677. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767–200, 300, and 300F Series Airplanes'' ((RIN2120–AA64) (2002–0287)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7678. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777–200 and 300 Series Airplanes'' ((RIN2120–AA64) (2002–0288)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7679. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Air Tractor Inc. Models AT 502, 502A, 502B, and 503A'' ((RIN2120–AA64) (2002–0289)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7680. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Security Considerations for the Flightdeck on Foreign Operated Transport Category Airplanes; Request for Comments'' (RIN2120–AH70) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7681. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter Deutschland Model EC135 Helicopters'' ((RIN2120–AA64) (2002–0285)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7682. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bell Helicopter Textron, Inc. Model 205A, 205A1, 205B, 212, 412, 412EP, and 412CF Helicopters'' ((RIN2120–AA64) (2002–0286)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7683. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Gulfstream Aerospace LP Model Galaxy and Gulfstream 200 Airplanes'' ((RIN2120–AA64) (2002–0291)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7684. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company Model 390 Airplanes'' ((RIN2120–AA64) (2002–0290)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7685. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (30); Amdt. No. 3009'' ((RIN2120–AA65) (2002–0038)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7686. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (46); Amdt. No. 3007'' ((RIN2120–AA65) (2002–0040)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7687. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of

a rule entitled ''Establishment of Class E Airspace; Calipatria, CA'' ((RIN2120–AA66) (2002–0095)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7688. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Thens, OH'' ((RIN2120–AA66) (2002–0094)) received on June 24 , 2002; to the Committee on Commerce, Science, and Transportation.

EC–7689. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (76); Amdt. 3008'' ((RIN2120–AA65) (2002–0039)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7690. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (42); Amdt. No. 3010'' ((RIN2120–AA65) (2002–0037)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1175: A bill to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes. (Rept. No. 107–183).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1384: To amend the National Trails System Act to designate the route in Arizona and New Mexico which the Navajo and Mescalero Apache Indian tribes were forced to walk in 1863 and 1864, for study for potential addition to the National Trails System. (Rept. No. 107–184).

H.R. 2234: A bill to revise the boundary of the Tumacacori National Historical Park in the State of Arizona. (Rept. No. 107–185).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 2037: A bill 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. (Rept. No. 107–186).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2428: A bill to amend the National Sea Grant College Program Act. (Rept. No. 107–187).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

H.R. 3322: A bill to authorize the Secretary of the Interior to construct an education and administrative center at the Bear River Migratory Bird Refuge in Box Elder County, Utah.

H.R. 3958: A bill to provide a mechanism for the settlement of claims of the State of Utah regarding portions of the Bear River Migratory Bird Refuge located on the shore of the Great Salt Lake, Utah.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 281: A resolution designating the week beginning August 25, 2002, as ''National Fraud Against Senior Citizens Awareness Week''.

S. Res. 284: A resolution expressing support for ''National Night Out'' and requesting that the President make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment:

S. 1339: A bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 2134: A bill to allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 2633: A bill to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlled substance, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

Air Force nomination of Gen. Ralph E. Eberhart.

Army nomination of Brig. Gen. John M. Urias.

Army nominations beginning Brig. Gen. George W.S. Read and ending Col. Larry Knightner, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nominations beginning Brig. Gen. Edwin E. Spain III and ending Col. Dennis E. Lutz, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nomination of Brig. Gen. Joseph G. Webb, Jr.

Army nominations beginning Brig. Gen. Wayne M. Erck and ending Col. John P. McLaren, Jr., which nominations were received by the Senate and appeared in the Congressional Record on June 11, 2002.

Navy nomination of Rear Adm. Phillip M. Balisle.

Navy nomination of Rear Adm. Robert F. Willard.

Air Force nominations beginning Brigadier General Robert Damon Bishop, Jr. and ending Brigadier General Stephen G. Wood, which nominations were received by the Senate and appeared in the Congressional Record on February 15, 2002.

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

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

Army nominations beginning Timothy C * Beaulieu and ending William E Wheeler, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nominations beginning Duane A Belote and ending Neal E * Woollen, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nominations beginning John C Aupke and ending Steven R Young, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nominations beginning Ann M Altman and ending Angelia L * Wherry, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nominations beginning Ryo S Chun and ending John K Zaugg, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Marine Corps nominations beginning Derek M Abbey and ending Mark D Zimmer, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nomination of Michael J. Meese.

Army nominations beginning Steven A. Beyer and ending James F. Roth, which nominations were received by the Senate and appeared in the Congressional Record on June 5, 2002.

Army nomination of Jay A. Jupiter.

Army nomination of Andrew D. Magnet.

Army nominations beginning Bernard Coleman and ending Michael A. Stone, which nominations were received by the Senate and appeared in the Congressional Record on June 5, 2002.

Air Force nomination of Sharon G. Harris.

Air Force nominations beginning Nicola A. * Choate and ending Nicholas G. * Viyouh, which nominations were received by the Senate and appeared in the Congressional Record on June 7, 2002.

Air Force nominations beginning Kathleen N. Echiverri and ending Jeffrey E. Haymond, which nominations were received by the Senate and appeared in the Congressional Record on June 7, 2002.

Army nomination of Robert A. Mason.

Army nominations beginning Richard E. Humston and ending Dwight D. Riggs, which nominations were received by the Senate and appeared in the Congressional Record on June 7, 2002.

Army nomination of Nanette S. Patton.

By Mr. LEAHY for the Committee on the Judiciary.

Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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. ENSIGN:

S. 2688. A bill to amend title XVIII of the Social Security Act to waive the part B late enrollment penalty for military retirees who enroll by December 31, 2003, and to provide a special part B enrollment period for such retirees; to the Committee on Finance.

By Mr. LEVIN (for himself and Ms. STABENOW):

S. 2689. A bill to establish a United States-Canada customs inspection pilot project; to the Committee on Finance.

By Mr. HUTCHINSON (for himself, Mr. SESSIONS, Mr. LOTT, Ms. COLLINS, Mr. BURNS, Mrs. HUTCHISON, Mr. HELMS, Mr. INHOFE, Mr. CAMPBELL, Mr. ROBERTS, Mr. DEWINE, Mr. SHELBY, Mr. ALLEN, Mr. ENSIGN, Mr. SMITH of New Hampshire, Mr. BENNETT, Mr. STEVENS, Mr. VOINOVICH, Mr. GRAMM, Mr. MCCONNELL, Mr. BROWNBACK, Mr. NICKLES, Mr. BUNNING, Mr. ENZI, Mr. HAGEL, Mr. LUGAR, Mr. BOND, Mr. MURKOWSKI, Mr. CRAIG, Mr. THOMAS, Mr. CRAPO, Mr. DOMENICI, Mr. KYL, Mr. MILLER, Mr. ALLARD, and Mr. WARNER):

S. 2690. A bill to reaffirm the reference to one Nation under God in the Pledge of Allegiance; considered and passed.

By Mr. FEINGOLD:

S. 2691. A bill to amend the Communications Act of 1934 to facilitate an increase in programming and content on radio that is locally and independently produced, to facilitate competition in radio programming, radio advertising, and concerts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CORZINE (for himself, Mr. TORRICELLI, Mr. DURBIN, and Mr. NELSON of Florida):

S. 2692. A bill to provide additional funding for the second round of empowerment zones and enterprise communities; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. CORZINE):

S. 2693. A bill to amend the Internal Revenue Code of 1986 to encourage retirement savings for individuals by providing a refundable credit for individuals to deposit in a Social Security Plus account, and for other purposes; to the Committee on Finance.

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

S. 2694. A bill to extend Federal recognition to the Chickahominy Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Tribe, and the Nansemond Tribe; to the Committee on Indian Affairs.

By Mr. FRIST (for himself, Mr. FEINGOLD, and Mr. LUGAR):

S. 2695. A bill to amend the Foreign Assistance Act of 1961 to extend the authority for debt reduction, debt-for-nature swaps, and debt buybacks to nonconcessional loans and credits made to developing countries with tropical forests; to the Committee on Foreign Relations.

By Mr. BINGAMAN:

S. 2696. A bill to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REID (for himself, Mrs. BOXER, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. SARBANES):

S. 2697. A bill to require the Secretary of the Interior to implement the final rule to phase out snowmobile use in Yellowstone National Park, John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park, and snowplane use in Grand Teton National Park; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER:

S. 2698. A bill to establish a grant program for school renovation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER:

S. 2699. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BIDEN (for himself, Mr. THURMOND, Mr. CONRAD, Mr. CLELAND, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. MILLER, Mr. DEWINE, Mr. COCHRAN, Mr. DURBIN, Mr. LUGAR, Ms. COLLINS, Mr. SESSIONS, Mr. KERRY, Mr. BREAUX, Mr. DODD, Mr. DORGAN, Mr. HELMS, Mr. BAUCUS, Mrs. BOXER, Mr. JOHNSON, Ms. LANDRIEU, Mr. GRASSLEY, Mr. ROBERTS, Mr. LEVIN, Mr. REID, Mr. LEAHY, Mr. MCCAIN, Mr. HOLLINGS, Mr. SARBANES, Mr. VOINOVICH, Mr. INHOFE, Mrs. MURRAY, Mr. GREGG, Ms. MIKULSKI, Mr. DOMENICI, Mr. HUTCHINSON, Mrs. LINCOLN, Mr. SANTORUM, Mr. CRAPO, Mr. BUNNING, Mr. CRAIG, Mr. STEVENS, Mr. AKAKA, Mr. NELSON of Florida, Mr. CARPER, Mr. INOUYE, Mr. HAGEL, Mr. FEINGOLD, Mr. WARNER, Mr. BINGAMAN, and Mr. DAYTON):

S. Res. 293. A resolution designating the week of November 10 through November 16, 2002, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. SPECTER, Mr. DASCHLE, Mr. DODD, Mr. TORRICELLI, Mr. FEINGOLD, Mr. DAYTON, Ms. STABENOW, Mr. DURBIN, Mr. JEFFORDS, Mr. KENNEDY, Mr. INOUYE, Ms. CANTWELL, Mr. LEAHY, Mr. WYDEN, Mrs. BOXER, Mr. REED, Mr. AKAKA, Mr. HARKIN, Mrs. CLINTON, Mr. REID, Mrs. MURRAY, Mr. CORZINE, Mr. BINGAMAN, Ms. MIKULSKI, Mr. BAYH, Mr. LEVIN, Mr. WELLSTONE, Mr. KERRY, Ms. COLLINS, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. EDWARDS, Mr. SMITH of Oregon, Mr. BIDEN, Mr. SCHUMER, Mr. CHAFEE, Mr. SARBANES, Mr. KOHL, Mrs. CARNAHAN, Mr. CARPER, Mr. NELSON of Florida, and Mr. CLELAND):

S. Res. 294. A resolution to amend rule XLII of the Standing Rules of the Senate to prohibit employment discrimination in the Senate based on sexual orientation; to the Committee on Rules and Administration.

By Mr. CAMPBELL (for himself, Mr. AKAKA, Mr. DOMENICI, Mr. COCHRAN, and Ms. STABENOW):

S. Res. 295. A resolution commemorating the 32nd Anniversary of the Policy of Indian Self-Determination; to the Committee on the Judiciary.

By Mr. DASCHLE:

S. Con. Res. 125. A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.

By Mr. REID (for himself, Mr. CRAIG, Mrs. FEINSTEIN, and Ms. STABENOW):

S. Con. Res. 126. A concurrent resolution expressing the sense of Congress regarding Scleroderma; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 326

At the request of Ms. COLLINS, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 326, a bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services and to permanently increase payments for such services that are furnished in rural areas.

S. 346

At the request of Mr. MURKOWSKI, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 346, a bill to amend chapter 3 of title 28, United States Code, to divide the Ninth Judicial Circuit of the United States into two circuits, and for other purposes.

S. 454

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 454, a bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 677

At the request of Mr. FRIST, his name was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1156

At the request of Mr. SMITH of Oregon, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1156, a bill to amend the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act.

S. 1220

At the request of Mr. BREAUX, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1220, a bill to authorize the Secretary of Transportation to establish a grant program for the rehabilitation, preservation, or improvement of railroad track.

S. 1339

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr.

HATCH) was added as a cosponsor of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1379

At the request of Mr. KENNEDY, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1379, a bill to amend the Public Health Service Act to establish an Office of Rare Diseases at the National Institutes of Health, and for other purposes.

S. 1394

At the request of Mr. ENSIGN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1476

At the request of Mr. CLELAND, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1476, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1777

At the request of Mrs. CLINTON, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1777, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes.

S. 2013

At the request of Mr. WELLSTONE, his name was added as a cosponsor of S. 2013, a bill to clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services.

S. 2055

At the request of Ms. CANTWELL, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2055, a bill to make grants to train sexual assault nurse examiners, law enforcement personnel, and first responders in the handling of sexual assault cases, to establish minimum standards for forensic evidence collection kits, to carry out DNA analyses of samples from crime scenes, and for other purposes.

S. 2428

At the request of Mr. KERRY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2428, a bill to amend the National Sea Grant College Program Act.

S. 2438

At the request of Mr. SARBANES, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 2438, a bill to amend the Truth in Lending Act to protect consumers against predatory practices in connection with high cost mortgage transactions, to strengthen the civil remedies available to consumers under existing law, and for other purposes.

S. 2455

At the request of Mr. ENSIGN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2455, a bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 2480

At the request of Mr. LEAHY, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2490

At the request of Mr. TORRICELLI, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2490, a bill to amend title XVIII of the Social Security Act to ensure the quality of, and access to, skilled nursing facility services under the medicare program.

S. 2513

At the request of Mr. BIDEN, the names of the Senator from Utah (Mr. HATCH), the Senator from Illinois (Mr. DURBIN), the Senator from California (Mrs. FEINSTEIN), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 2513, a bill to asses the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

S. 2528

At the request of Mr. DOMENICI, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2528, a bill to establish a National Drought Council within the Federal Emergency Management Agency, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 2536

At the request of Ms. STABENOW, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2536, a bill to amend title XIX of the Social Security Act to clarify that section 1927 of that Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the medicaid program.

S. 2570

At the request of Ms. COLLINS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2570, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program, and for other purposes.

S. 2613

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2613, a bill to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the cost-sharing requirement relating to the additional appropriations, and for other purposes.

S. 2622

At the request of Mr. HOLLINGS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2622, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation.

S. 2633

At the request of Mr. BIDEN, the names of the Senator from Utah (Mr. HATCH), the Senator from Vermont (Mr. LEAHY), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2633, a bill to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlled substance, and for other purpose.

S. 2637

At the request of Mr. CONRAD, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 2637, a bill to amend the Internal Revenue Code of 1986 and the Surface Mining Control and Reclamation Act of 1977 to protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund and 1992 Benefit Plan by providing additional sources of revenue to the Fund and Plan, and for other purposes.

S. 2647

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2647, a bill to require that activities carried out by the United States in Afghanistan relating to governance, reconstruction and development, and refugee relief and assistance will support the basic human rights of women and women's participation and leadership in these areas.

S. RES. 266

At the request of Mr. ROBERTS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as ''Put the Brakes on Fatalities Day.''

S. RES. 284

At the request of Mr. BIDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 284, a resolution expressing support for ''National Night Out'' and requesting that the President make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration.

S. CON. RES. 119

At the request of Mr. BURNS, the names of the Senator from Georgia (Mr. CLELAND), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Georgia (Mr. MILLER), and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Con. Res. 119, a concurrent resolution honoring the United States Marines killed in action during World War II while participating in the 1942 raid on Makin Atoll in the Gilbert Islands and expressing the sense of Congress that a site in Arlington National Cemetery, near the Space Shuttle Challenger Memorial at the corner of Memorial and Farragut Drives, should be provided for a suitable monument to the Marine Raiders.

S. CON. RES. 121

At the request of Mr. HUTCHINSON, the names of the Senator from Colorado (Mr. CAMPBELL) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. Con. Res. 121, a concurrent resolution expressing the sense of Congress that there should be established a National Health Center Week for the week beginning on August 18, 2002, to raise awareness of health services provided by community, migrant, public housing, and homeless health centers.

S. CON. RES. 122

At the request of Ms. SNOWE, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. Con. Res. 122, a concurrent resolution expressing the sense of Congress that security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union which will provide significant rights and obligations for all Cypriots, and for other purposes.

AMENDMENT NO. 3922

At the request of Mr. HUTCHINSON, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of amendment No. 3922 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 3983

At the request of Mr. STEVENS, his name was added as a cosponsor of amendment No. 3983 intended to be proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 4094

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 4094 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 4134

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 4134 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 4143

At the request of Ms. LANDRIEU, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 4143 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD:

S. 2691. A bill to amend the Communications Act of 1934 to facilitate an increase in programming and content on radio that is locally and independently produced, to facilitate competition in radio programming, radio advertising, and concerts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. FEINGOLD. Mr. President, I rise today to introduce legislation that will promote competition in the radio and concert industries.

This legislation will begin to address many of the concerns that I have heard from my constituents regarding the concentration of ownership in the radio and concert industry and its effect on consumers, artists, local businesses, and ticket prices.

A few weeks ago, I began discussing with my colleagues a number of concerns that I have been hearing from Wisconsinites. Anti-competitive practices are hurting local radio station owners, local businesses, consumers, and artists.

During the debate of the 1996 Telecommunications Act, I joined a number of my colleagues in opposing the deregulation of radio ownership rules because of concerns about its effect on consumers, artists, and local radio stations.

Passage of this act was an unfortunate example of the influence of soft money in the political process. As my colleagues will recall, I have consistently said that this act was bought and paid for by soft money. Everyone was at the table, except for the consumers.

We have enacted legislation to rid the system of this loophole in campaign finance law, but we must also repair the damage that it allowed.

In just five years since its passage, the effects of the Telecommunications Act have been far worse than we imagined. While I opposed this act because of its anti-consumer bias, I did not predict that the elimination of the national radio ownership caps and relaxation of local ownership caps would have triggered such a tremendous wave of consolidation and harmed such as diverse range of interests.

This legislation did not simply raise the national ownership limits on radio stations, it eliminated them all together. It also dramatically altered the local radio station ownership limits through the implementation of a tiered ownership system that allowed a company to own more radio stations in the larger markets.

When the 1996 Telecommunications Act became law there were approximately 5,100 owners of radio stations. Today, there are only about 3,800 owners, a decrease of about 25 percent.

Concentration at the local levels are unprecedented.

At the same time that ownership of radio stations has become increasingly concentrated, some large radio station ownership groups have also bought promotion services and advertising.

I have been hearing from people at home in Wisconsin, from Radio station owners, artists, broadcasters, and concert promoters who are being pushed out by anti-competitive practices, practices that result from an increasingly concentrated market.

I am very concerned that these levels of concentration are pushing independent radio station owners and concert promoters out of business. And I am concerned that a few companies are leveraging their cross-ownership of radio, concert promotion, and venues in an anti-competitive manner.

My legislation addresses these concerns by prohibiting any entity that owns radio stations, concert promotion services, or venues from leveraging their cross-ownership in anti-competitive manner. Under this proposal, the FCC would revoke the license of any radio station that uses its cross owner

ship of promotion services or venues to prevent access to the airwaves, venues, or in other anti-competitive ways.

For example, if an owner of a radio station and promotion service hindered access to the airwaves of a rival promoter, then the owner would be subject to penalties.

My legislation will also ensure that any future consolidation does not result in these anti-competitive practices. It will strengthen the FCC merger review process by requiring the FCC to scrutinize the mergers of large radio station ownership groups to consider the effect of national and local concentration on independent radio stations, concert promoters and consumers.

At the same time, it will also curb future local consolidation by preventing any upward revision of the limitation of multiple ownership of radio stations in local markets.

It will also close a loophole that currently allows large radio ownership companies to exceed the cap by ''warehousing stations'' through a third party. In these arrangements, large radio owners control a station through a third party, but the stations are not accounted for in their local ownership cap.

Finally, my legislation will also address many of the problems created by the consolidation in the radio industry, such as the new forms of payola. This legislation will require the FCC to modernize the Federal payola prohibition to prevent these large radio station ownership groups from leveraging their power to extract money or other consideration from artists, such as forcing them to play concerts for free.

Radio is a public medium and we must ensure that it serves the public good. The concentration of ownership, in the radio and concert industry, has caused great harm to people and businesses that have been involved in and concerned about the industry for generations.

It also harms the flow of creativity and ideas that artists seek to contribute to our society. This concentration does a disservice to our society at every level of the industry, and it must be addressed.

I urge my colleagues to join me to cosponsor this legislation to help to restore competition to the radio and concert industry by putting independent radio stations and concert promoters on a level playing field in the marketplace. This will help promote competition, local input, and diversity, and promote consumer choices.

By Mr. CORZINE (for himself, Mr TORRICELLI, Mr. DURBIN, and Mr. NELSON of Florida):

S. 2692. A bill to provide additional funding for the second round of empowerment zones and enterprise communities; to the Committee on Finance.

Mr. CORZINE. Mr. President, today I am introducing legislation, ''The Round II Empowerment Zone/Enterprise Community, EZ/EC, Flexibility Act of 2002,'' to provide funding for the Round II Enterprise Zone/Enterprise Community program. I want to thank and acknowledge Senators TORRICELLI, DURBIN and NELSON of Florida for their cosponsorship of this bill.

This legislation would encourage economic development throughout the EZ/EC program, particularly to the 15 Round II urban and 5 rural empowerment zones that were designated in 1999. Each of those communities has put together strong strategic initiatives to promote economic growth.

The legislation would help ensure that these Round II communities will be provided with the funding they have been promised. The bill also would authorize the use of EZ/EC grants as a match for other relevant Federal programs. This would provide the EZ/EC program with maximum flexibility to implement initiatives at the local level.

The Enterprise Zone/Enterprise Community program was created to provide Federal assistance over ten years in designated urban and rural communities that would fuel economic revitalization and job growth. The program does so primarily by providing federal grants to communities and tax and regulatory relief to help communities attract and retain businesses.

Unfortunately, an inequity now exists between the way Round I and Round II EZs and ECs have been funded. Those communities that won EZ designations in the initial round, in 1994, received full funding from the Congress, which made all grant awards available for use within the first two years of designation. However, EZs and ECs designated in Round II did not receive this same funding authority.

Federal benefits promised to the Round IIs included funding grants of $100 million for each urban zone, $40 million for each rural zone and about $3 million for each Enterprise Community over a ten-year period beginning in 1999. In reliance on those ''promised'' funds, Round II zones prepared strategic plans for economic revitalization based on the availability of that funding. However, unlike Round I designees, who received a full funding up front, Round II zones have received a mere fraction of the funding promise.

The lack of a certain, predictable funding stream will ultimately undermine the ability of Round II EZs/ECs to effectively implement their economic growth strategies in their designated communities. And that's a shame, because the EZ/EC initiative has produced real results.

In fact, I'm proud to say that one of the best Round II EZs is located in Cumberland County, NJ. The Cumberland County Empowerment Zone, a collaborative effort of the communities of Bridgeton, Millville, Vineland and Port Norris, has been a model EZ, and committed all the funds made available to it by HUD.

Since the creation of the EZ, Cumberland County has witnessed more than 100 housing units rehabbed, renovated or newly built. A $4 million loan pool has been created to fund community and small business reinvestment. The EZ also has led to the funding for over 60 economic development initiatives, utilizing more than $11 million in funding to leverage $120 million in private, public and tax exempt bond financing.

These, are real results. And if the Federal commitment to the EZ continues, over 1,100 new jobs will be created in the County over the next year and a half alone.

Cumberland County is just one example of how the EZ/EC initiative has brought hope and promise to communities throughout America. We need to do more to support and build on these initiatives. Now is the time for Congress to fulfill the promise made to Round II EZs and ECs.

I urge my colleagues to cosponsor this legislation, and hope the Senate will expedite its consideration.

By Mr. DORGAN (for himself and Mr. CORZINE):

S. 2693: A bill to amend the Internal Revenue Code of 1986 to encourage retirement savings for individuals by providing a refundable credit for individuals to deposit in a Social Security Plus account, and for other purposes; to the Committee on Finance.

Mr. DORGAN. Mr. President, the Board of Trustees for the Social Security Trust Fund issued its annual report in March describing the financial health of the Trust Fund and its outlook for the future. The report shows that the financial condition of the Trust Fund over the next few decades has improved somewhat since last year, that is, the Social Security program is now expected to remain solvent for three additional years through 2041. This is welcome news for the tens of millions of baby boomers who will depend on this program in the coming decades.

However, this latest Trustees' report also makes clear that the Social Security program still faces significant long-term financial challenges. This finding was not unexpected. In fact, there is already bipartisan agreement in Congress that we will need to make some careful changes to the Social Security system in order to guarantee the solvency of the Social Security Trust Fund beyond 2041. Today, Senator CORZINE of New Jersey and I are introducing legislation that we think should be part of those reform discussions.

Our legislation, called the Social Security Plus Account Act, builds upon two fundamental principles: One, the underlying guaranteed defined benefit approach of the current Social Security program should not be scrapped or weakened. Social Security has become the foundation of the Nation's retirement system, something that people

can always count on. At a time when private employers are shifting more retirement saving risks onto the shoulders of their employees through the use of defined contribution plans like 401(k) plans rather than traditional defined benefit pension plans, the need to retain Social Security's basic guaranteed payment is paramount.

Second, this legislation recognizes that Congress must do more to encourage families and individuals, especially those of modest means, to increase their savings and to build a retirement nest egg. Specifically, our legislation provides for the creation of new tax-favored retirement savings accounts that individuals and families could access to supplement, but not replace, their expected future Social Security benefits.

Unlike many reform proposals, this legislation leaves the Social Security program intact. Many privatization plans force you to choose between individual accounts and the loss of Social Security's guaranteed benefit at current levels. Our proposal calls for personal accounts as an ''add-on'' to Social Security. This is an important distinction from the ''carve-out'' accounts featured in privatization plans. Privatization plans will inevitably reduce traditional guaranteed benefits. Our approach would not.

Under this legislation, eligible individuals can set up and make tax-favored contributions of up to $2,000 to a new Social Security Plus Account, SSPA. To provide an extra savings boost for low- and moderate-income families, our legislation would require the Federal Government to provide matching contributions between 25 and 100 percent for married couples with adjusted gross income below $100,000, $50,000 for singles. The $2,000 limit applies to the total of the individual's own contribution and the Federal match. This will make it much more affordable for low and moderate earners to fully fund their accounts.

Like traditional individual retirement accounts, SSPAs can grow tax-free. For example, if an individual aged 30 who files a joint return and has annual earnings of about $25,000 contributes $500 to a SSPA, the Federal Government would match that contribution with a $500 contribution to the account. If that individual contributes $500 in cash each year to the account for 32 years, earning 5-percent interest per year, until retirement at age 62, he or she would have some $80,000 available for distribution from the account. This amount grows to $160,000 if the individual is able to contribute the maximum in each year.

Let's take another example. Assume that an individual who is forty years old, files a joint return and has annual adjusted gross income of $80,000. If he or she could make the maximum permissible contribution each year until reaching age 62, along with an annual government match of $400, he or she might expect to have at least $160,128 available at retirement.

Under our legislation, the accrued amounts that are paid out or distributed when the holder of a SSPA retires, dies or becomes disabled are treated like Social Security benefits and a portion of the distributions would be taxed only above certain threshold amounts.

Now I fully understand that we may not be able to enact this legislation this year or next. Regrettably, last year's highly-touted projected budget surpluses have vanished for at least the next several years and resources are now scarce. The massive tax cuts put in place in the summer of 2001, and scheduled to take full effect over a period of years, will make finding adequate funds for many of the Nation's critical spending priorities even more difficult.

However, many of the privatization proposals would require massive infusions from the Treasury general revenue fund to offset the transition and other costs for even partial privatization initiatives. If such resources are available, it seems to me that we would better serve our citizens by using these scarce resources to enact Social Security Plus Accounts that will help them save for retirement but not put the underlying Social Security program at risk.

The current Social Security system has served us well for many years and will continue to do so if we make some adjustments. Still we all know that Social Security reform is needed. I remain committed to working on a bipartisan basis to address the long-term solvency issues facing Social Security and to improve retirement savings. And we do need to implement appropriate Social Security reforms as soon as our resources will allow us. Needlessly delaying efforts to shore up Social Security for the long term would likely require more severe action.

We certainly can't afford to make matters worse in the interim. A number of us in the Senate are concerned by the proposals offered by President Bush and some in Congress to eliminate the guaranteed basis of Social Security and replace it, in part with private accounts. The suggestion to ''privatize'' Social Security, or to invest a portion or all of the trust funds in the stock market, has been supported by the large investment banking houses and many others who believe that doing so would produce higher returns and improve the solvency of the system.

Several of the President's Commission on Social Security privatization plans would divert some of the payroll taxes that are currently being collected. Some of the proposals would use well over $1 trillion from the Social Security Trust Fund. This would immediately and adversely impact the financial well-being of the Social Security Trust Fund, putting in jeopardy both current and future Social Security benefits

I do not believe that investing the proceeds of the Social Security system in the stock market through individual accounts provides the kind of stability and certainty we need for the management of the Social Security program. Social Security is intended to provide what its name suggests, security. Stock market investments do not provide this secure foundation. They increase, on average, over certain time periods. But people don't retire at average times. They retire at particular times.

This point is mostly glossed over by the President's Commission to Strengthen Social Security. The Commission issued its final report last December that included several reform options that would allow workers to invest in personal retirement accounts, but reduce their traditional guaranteed Social Security benefit. In my judgment, no one, including the President's Commission, has provided a satisfactory answer to the question of what happens to people who retire when the market is down if we change Social Security, even partly, from a social insurance program to a stock market investment program. This is not mere polemics. The Enron debacle, the boom and bust of the dot com companies of the late 1990s, and the declining stock prices of recent weeks all serve as stark reminders to all of us about the perils of investing in the stock market.

Again, I will be working for appropriate reforms to extend the life of the Social Security Trust Fund so future generations can rely on Social Security. Social Security Plus Accounts can provide a much-needed supplement to the basic program, but would do so without undermining it. They do not reform the program by themselves, but are designed to be part of a responsible reform package.

For many of our nation's seniors, Social Security is the difference between poverty and a dignified retirement. When President Franklin D. Roosevelt signed the Social Security program into law in 1935 he said ''We can never insure one-hundred percent of the population against one-hundred percent of the hazards and vicissitudes of life. But we have tried to frame a law which will give some measure of protection to the average citizen and his family against poverty ridden old age.'' The importance of his words and his new social insurance plan are reflected in Social Security's overwhelming success today. Let's make sure that the promise and security of Social Security is kept for many generations to come.

I urge my colleagues to consider supporting this proposal in the context of comprehensive Social Security reforms considered by the Senate. Below I've provided a detailed summary of the Social Security Plus Account Act to more fully explain how the new savings accounts would work.

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:

SOCIAL SECURITY PLUS ACCOUNT ACT OF 2002

In general

This legislation creates new tax-favored Social Security Plus Accounts (SSPA). Generally, an eligible individual with at least $5,000 of annual earnings and who is not a dependent of another taxpayer or a full-time college student may contribute up to $2,000 to a SSPA for each year until he or she reaches the age of 70 & ½. An individual whose modified adjusted gross income exceeds $150,000 ($300,000 for a married individual) is ineligible to make a contribution to a SSPA.

A 20-percent refundable tax credit is allowed for eligible contributions to a SSPA. In addition, the federal government will match a percentage of a SSPA contribution for taxpayers with modified adjusted gross income (AGI) below a certain level (See below).

Amounts in SSPAs that are distributed for permissible purposes are subject to favorable income tax treatment and are not subject to penalty.

An eligible individual shall file a designation of the SSPA to which the match is made, along with his or her tax return for the year (or if no return is filed, on a form prescribed by the Secretary of the Treasury) not later than the due date for filing such return (including extensions) or the 15th day of April, whichever is later.

Matching contributions

In the case of an eligible individual, the federal government makes a matching contribution to the SSPA. This is accomplished as refundable tax credit for the tax year in an amount equal to the matching contribution. The allowable credit is treated as an overpayment of tax which may only be transferred to a SSPA.

The Secretary of the Treasury will make matching contributions to the SSPAs of taxpayers with modified AGI below a certain level. The applicable percentage shall be according to the following:

In the case of an individual filing a joint return:

	The applicable percentage is:
If modified adjusted gross income is:	
$30,000 or less	100
Over $30,000 but not over $60,000	50
Over $60,000 but not over $100,000	25
Over $100,000	zero
In the case of a head of household:	
$22,500 or less	100
Over $22,500 but not over $45,000	50
Over $45,000 but not over $75,000	25
Over $75,000	zero
In the case of any other individual:	
$15,000 or less	100
Over $15,000 but not over $30,000	50
Over $30,000 but not over $50,000	25
Over $50,000	zero

Maximum contributions

The maximum annual contribution to a SSPA each year in $2,000—including both the individual and matching contributions. As such, the maximum annual contribution would be $1,000 for those in the lowest bracket (with a $1,000 maximum match), $1,333.33 for the middle bracket (with a $667 maximum match) and $1,600 for the next bracket (with a $400 maximum match). Those in the highest bracket with earnings over $100,000 could contribute $2,000 (with no match).

Minimum contributions

The minimum annual contribution must be sufficient to ensure that the total deposit is $200 (i.e. the lowest bracket would have to contribute at least $100, the middle bracket would have to contribute at least $133, the next bracket at least $160, and the highest bracket at least $200).

Tax treatment of SSPAs

Similar to traditional individual retirement accounts (IRAs), amounts contributed to a SSPA would be tax-favored and accounts would grow tax-free. However, amounts paid or distributed out of a SSPA would be taxable like Social Security benefits. That is, up to 50% of SSPA benefits are taxable for taxpayers whose income plus 50% of their benefits exceed $25,000 for individuals and $32,000 for couples. Up to 85% of SSPA benefits are taxable for taxpayers whose income plus benefits exceeds $34,000 for individuals and $44,000 for couples.

10-percent penalty for disqualified distributions

Distributions that are not made from a SSPA after retirement, death, disability or not used for catastrophic medical expenses exceeding 7.5% of AGI are includible in gross income and are subject to regular tax rates and a 10-percent penalty. Matching contributions from the federal government may be distributed from an SSPA only after retirement, at death or in the event of disability.

Mr. CORZINE. Mr. President, I am pleased to join today with Senator DORGAN in introducing legislation, the Social Security Plus Account Act of 2002, that would create new tax-favored Social Security Plus Accounts to supplement the existing Social Security program.

Although the Social Security Trust Fund is now projected to remain solvent for almost 40 years, I share the interest of a broad range of leaders in exploring ways to extend solvency further into the future. At this point, it remains unclear when Social Security reform will be debated. However, Senator DORGAN and I are introducing this legislation in the hope that it will be considered when that debate moves forward.

As most of my colleagues know, last year President Bush appointed a commission to recommend ways to move toward privatization of Social Security. Last December, that commission issued a report that included proposals to establish privatized accounts into which a portion of Social Security contributions would be diverted. The Bush Commission's proposals included deep cuts in guaranteed benefits, cut that for some current workers would exceed 25 percent, and for future retirees would exceed 45 percent.

I strongly oppose these cuts. In my view, they would take the security out of Social Security. That would undermine the central goal of the program.

At the same time, I recognize that, by itself, Social Security will not provide sufficient funds for many retirees in the future. That is why it is important that Americans save on their own to prepare for retirement. I therefore support other government initiatives to promote private savings, such as individual retirement accounts and 401(k) plans.

The proposal for Social Security Plus Accounts in this legislation takes the concept of an IRA or 401(k) account, and builds on it. These new accounts would provide an additional and more powerful savings incentive for many Americans, especially middle class workers and those with more modest incomes. Under our legislation, the government would match contributions by taxpayers with incomes below certain levels. In addition, all contributions would provide immediate tax relief: a tax cut equal to 20 percent of the contribution. Moreover, when a person takes money out of an account at retirement, the proceeds would be treated in the same manner as Social Security benefits, meaning that some or all proceeds could be withdrawn tax free.

A Social Security Plus Account would provide a useful supplement to our Social Security system, without weakening that system in any way. Unlike the proposals of the Bush Social Security Commission, these new accounts would not force a reduction in traditional Social Security benefits. This difference is critical.

Senator DORGAN and I recognize that the establishment of Social Security Plus Accounts would require resources that are not presently available. We therefore appreciate that action on our legislation will have to wait until later, when we have more financing. However, we believe it important to put our proposal on the table today, to help ensure that when the appropriate time comes, our colleagues understand that there is more than one way to establish personal accounts. The right way, as proposed in this legislation, is to establish accounts that supplement Social Security, without draining the Social Security Trust Fund, without cutting benefits, and without undermining Social Security's promise to Americans who have paid into the system in good faith.

I want to thank Senator DORGAN for his leadership in this effort. I look forward to working with him to ensure that we find new and better ways to promote savings, without undermining the basic guarantees provided through Social Security.

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

S. 2694. A bill to extend Federal recognition to the Chickahominy Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Tribe, and the Nansemond Tribe; to the Committee on Indian Affairs.

Mr. ALLEN. Mr. President, I rise in support of Virginia's Indian Tribes and to introduce a bill to extend Federal recognition to six of Virginia's Indian Tribes.

These Tribes have a rich tradition and history, not only for Virginia, but also for the Nation as a whole. My bill will recognize the Chickahominy Tribe; the Chickahominy Tribe Eastern Division; the Upper Mattaponi Tribe; the Rappahannock Tribe; the Monacan Tribe; and the Nansemond Tribe.

The title of the bill is the ''Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act''. For me, this legislation also has a very personal aspect to it. Thomasina Jordan

was a dear friend of mine. As Governor of Virginia, I appointed Thomasina as Chair of the Virginia Council on Indians, and she served as an advisor to me in many ways over the years. Thomasina was a great leader and civil rights activist in Virginia, paving the way for this legislation. Regrettably, she passed away in 1999 after a long and courageous battle with cancer. I offer this legislation in her memory as her last battle on earth was for Federal recognition of Virginia's tribes. Thomasina's efforts to ensure equal rights and recognition to all American Indians continue today in spirit because she was able to have an effect on the lives of so many individuals and encourage many to join her quest for fairness, honor and justice.

The American Indians in Virginia contribute to the diverse, exciting nature and heritage of the Commonwealth of Virginia. Virginians are united in their desire to honor these first residents and I am pleased that Senator WARNER and I are able to join Virginia's House Delegation in offering this legislation.

There are more than 550 federally recognized Tribes in the United States. While no Tribes have been federally recognized in Virginia, the Commonwealth of Virginia has recognized the eight main tribes. According to the U.S. Census Bureau, there are over 21,000 American Indians living in Virginia.

''Federally recognized'' means these tribes and groups can enjoy a special legal relationship with the U.S. government where no decisions about their lands and people are made without Indian consent. It is important that we give Federal recognition to these proud Virginia tribes so that they cannot only be honored in the manner they deserve but also for the many benefits that federal recognition would provide.

Members of federally recognized tribes, most importantly, can qualify for grants for higher education opportunities.

There is absolutely no reason why American Indian Tribes in Virginia should not share in the same benefits that so many Indian tribes around the country enjoy.

The Indian Tribes in Virginia have one of the longest histories of any Indian tribe in America, which is a remarkable point considering none of the tribes in Virginia are federally recognized. As Virginia approaches the 400th anniversary of the 1607 founding of Jamestown, the first permanent English settlement in North America, it is crucial that the role of Indian tribes in Virginia in the development of our Commonwealth and our country are properly recognized and appreciated.

There are three routes that an Indian Tribe can pursue in order to receive Federal recognition. One, the tribe can apply for administrative recognition through the Bureau of Indian Affairs, which all these Virginia Tribes have done. Two, a tribe can gain Federal recognition through an act of Congress. And three, the tribe can obtain Federal recognition through legal proceedings in the court system.

There has been a sharp increase in recent years of the number of tribes seeking Federal recognition via an application to the Bureau of Indian Affairs. However, the General Accounting Office recently reported that, while the workload at the Bureau of Indian Affairs has increased dramatically, the resources to handle the large volume of applications has actually decreased. Since 1978, the Bureau of Indian Affairs has processed only 32 of the 150 applications it received, deciding favorably on only 12 of them. In fact, BIA averages only 1.3 completed applications a year. The route of Federal recognition through the Bureau of Indian Affairs and Bureau of Acknowledgement and Recognition is a cumbersome and lengthy process, which has taken sometimes over 20 years for an application to be decided upon.

In 1999, the Virginia General Assembly passed a resolution calling on the U.S. Congress to grant Federal recognition to the tribes in Virginia. Identical legislation to what I introduce today has already been introduced in the House. I join my House colleagues, Mr. MORAN of Virginia, Mrs. JO ANN DAVIS of Virginia, Mr. TOM DAVIS of Virginia, Mr. SCOTT, Mr. SCHROCK, Mr. BOUCHER, and Mr. FORBES in this important endeavor.

The precedent has already been set for the second route for attainment of Federal recognition, through an act of Congress. Since the 93rd Congress (1973–1974), Congress has restored Federal recognition to eighteen tribes and has granted seven new Federal recognitions to tribes. In 2000, Congress passed a law to grant new Federal recognition to the Shawnee Indians as a separate tribe from the Cherokee Nation of Oklahoma and another law to restore Federal recognition to the tribe of Graton Rancheria of California. It is time that Virginia's tribes receive the same recognition.

The main goal of this legislation is to establish a more equitable relationship between the tribes and the State and Federal Government.

While I understand that some may have a concern that Federal recognition of Indian tribes may lead to the establishment of gaming operations within a State, this is not the case. As a result of the 1988 Indian Gaming Regulatory Act, federally recognized Indian Tribes can conduct only the gaming operations that are authorized by State law. Tribes are unable to operate casinos, slot machines or card games unless approved by a specific State/Tribe Compact. My bill includes language restating this point to make it clear that nothing in the Act provides an exception to the Indian Gaming Regulatory Act. Ultimately, it gives proper coverage under Virginia law so as not to provide special gaming privileges.

This legislation not only lays out the path for granting Federal recognition to six American Indian Tribes in Virginia, but it also honors and details the proud history of each of the six Tribes.

The Virginia tribes have fought hard to retain their heritage and cultural identity, and it is my hope that this legislation be seen as a way to recognize this identity.

As Americans, we need to appreciate the many contributions American Indians have made to our Nation in order to make it the great country it is today. Thomasina Jordan once wrote: ''We belong to this land. For 10,000 years we have been here. We were never a conquered people. The dominant society needed us to survive in 1607, and it needs American Indians and our spiritual values to survive in the next millennium.'' The Commonwealth of Virginia has realized that it needs its proud Indian tribes. This bill is another step toward recognizing and appreciating this special relationship.

By Mr. FRIST (for himself, Mr. FEINGOLD, and Mr. LUGAR):

S. 2695. A bill to amend the Foreign Assistance Act of 1961 to extend the authority for debt reduction, debt-for-nature swaps, and debt buybacks to nonconsessional loans and credits made to developing countries with tropical forests; to the Committee on Foreign Relations.

Mr. FRIST. Mr. President, today I rise to introduce, with Senator FEINGOLD and Senator LUGAR, a bill that could have a far-reaching impact in preserving some of the most pristine tropical forest in the world.

We seek to amend the Tropical Forest Conservation Act, TFCA, a law passed in 1998. The TFCA has led to the preservation of thousands of acres of tropical forest, particularly in the Americas, by allowing low and middle income countries to engage in debt-for-nature ''swaps.'' The TFCA allows eligible governments to divert resources currently needed for debt service toward the conservation and management of disappearing rain forests.

Our amendment to TFCA would expand the use of this successful program. Our change would allow more tropical forests to be preserved. Under TFCA, countries are limited to using concessional debt for making swaps. Concessional debt is special low-interest loans reserved for the poorest countries to exchange non-concessional debt, e.g. Export-Import bank loans, etc. for preserved forest land. This change will not only increase the potential for swaps in countries with concessional debt, but also make some countries newly eligible for the program.

One example of a country that is not currently eligible for TFCA, but that has great potential for using the expanded program, is the African nation of Gabon. Gabon has some extraordinary, pristine forest land that deserves to be preserved.

In the fall of 2000, the National Geographic Society sponsored a 2000-mile, 15-month expedition through Central Africa by Dr. Mike Fay, a well known conservationist. Dr. Fay traveled through some of the last unexplored regions on earth, including the Langoue forest in Gabon. His expedition encountered a remarkable variety of species and habitat that are in danger of disappearing unless we help Gabon's government preserve it. Dr. Fay's observations of the Langoue Forest are compelling. Here are some excerpts from his report:

''[T]here's a river in almost the dead center of Gabon called the Ivindo which has an amazing set of waterfalls. It's a big river, probably a hundred or so meters wide, of slow, black water, and it drains almost all of northeastern Gabon. These chutes, these waterfalls—two in particular called Mingouli and Kongou—make this place an attraction.

An Italian named Giuseppe Vassallo, who died about a year and a half ago . . . promoted this place as a national park because he said it was the best forest in Gabon. He talked about it and lobbied for it and cajoled people, but it just never quite happened. We walked across this block that he'd always talked about, and I actually flew over it with him in '98 . . .

And we discovered the highest concentration of giant elephants that we'd seen on the entire walk. It's probably the only place left in the central African forest with elephants that are abundant and with a large percentage of very large males, tusks that no one has seen in a very long time, one hundred pounds on a side. Giant elephants, it's something you just don't see because they've been pouched out of the population. [And] naive gorillas, something that we hadn't seen on the entire trip. You can tell they're naive because when they see you they don't run away, they don't look alarmed, they don't act alarmed, they don't vocalize. The males don't charge at all and they get very curious. They come to see you and they approach well within the danger zone. They sit there for hours and they just stare as if it's something they've never seen before, and it's pretty obvious that they haven't.

You travel a little bit farther along and there's this mountain that we'd been navigating toward for a few weeks, and it's again full of elephants, and it's got all kinds of beautiful topography and rocky cliffs. It's a real sort hidden forest, and it really gives you a feeling of great isolation being up on this mountain plateau. So we started walking south of the mountain and pretty soon we came upon an elephant trail that lead us a little bit astray. It lead us to the east of where we wanted to go but we kept on following it and it just got bigger and bigger and bigger. I looked a the map and it was obvious that it was navigating us right toward a clearing. Long before you get to an elephant clearing you can tell where you're going, because the elephant trail opens up to like two meters wide, it's covered with dung, and there's a huge amount that are on these ''highways.'' It's a lot like how major highway arteries in the States get bigger as they go into the city, that's basically what it is for elephants, it's an ''elephant city.'' So, we get there, and there it is, this clearing that no one has ever seen before, no conservationist even could have imagined existed in Gabon. This place is just abounding with wildlife and you think ''This place really is what old Giuseppe said it was.'' Even though he had never walked in it, it was as if he just knew this place was the best. The place is called Langoue and it still exists.

There are about 1.2 million acres in the Langoue Forest that are completely untouched. Experts familiar with the region estimate that more than 700,000 acres at the heart of the forest could be preserved for about $3.5 million. This part of the forest includes the naive gorillas, the giant elephants, and the waterfalls.

At the very modest cost, our amendment will give nations like Gabon a new tool for preserving their remaining tropical forest, for the benefit of the people of Gabon, and for the benefit of mankind.

I ask unanimous consent that the full text of the interview with Dr. Fay and the text of a letter from Conservation International appear at this point in the RECORD.

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

[From National Geographic News, Aug. 9, 2001]

INTERVIEW: MIKE FAY IS ON A TREK TO PRESERVE FOREST IN GABON

(By Andrew Jones)

Last year, conservationist J. Michael Fay completed a 2,000-mile (3,218-kilometer), fifteen-month walk through central Africa in some of the world's most pristine forests. Now, the expedition leader for the National Geographic Society and an ecologist for the Wildlife Conservation Society has undertaken another challenge: a personal campaign to preserve nearly 250,000 hectares (618,000 acres) of forest in Gabon as a national park.

National Geographic News: You were in the African bush for fifteen months. How has that changed your perspective on conservation?

Dr. J. Michael Fay: As a conservationist, I would say it's a double-edged sword. Because when you're out there, you realize how much is left. There's such abundance—it's so huge, it goes on forever. You can walk for fifteen months and basically be in the woods the whole time and not have to traverse areas that are inhabited by humans. And you think, ''Wow, that's cool. This place is at the ends of the Earth; it will never be touched.'' Then you look at the map and the logging activity and you look at the human expansion and you think, ''This place is all going to disappear in the next seven to ten years.''

It makes you wake up to the fact that human beings, even in the 21st century, still don't regard natural resources as something precious. Because if they did, there would be a worldwide effort to preserve these places rather than extract wood out of them as quickly as possible with zero regard for ecosystems, while wasting most of that wood before you get it to the market. So from my perspective, it was pretty depressing.

NG News: do you think there's anyone in particular to blame? Or is there no one person or group we can point to as the source of the problem?

Fay: I think the human species is what it is. It evolved to extract as many resources as it possibly could from the environment to survive better and better. That's kind of what humans are programmed to do. And to do the opposite of that, to conserve, I think is a very difficult thing for people to even comprehend, let alone enact. It's kind of counter-evolutionary, and I think it takes a lot of education and a lot of foresight. If humans want to survive on this planet without having some kind of catastrophic event take out large percentages of the population someday in the future, then they're going to have to make that shift. A lot of people talk about it, a lot of people understand it, but it's really hard to make that last jump and actually say, ''Okay, I'm going to make a switch.''

NG News: You're now trying to have nearly 250,000 hectares of forest land in Gabon designated as a national park. Why did you choose that particular area?

Fay: Well, there's a river in almost the dead center of Gabon called the Ivindo which has an amazing set of waterfalls. It's a big river, probably a hundred or so meters wide, of slow, black water, and it drains almost all of northeastern Gabon. These chutes, these waterfalls—two in particular called Mingouli and Kongou—make this place an attraction.

An Italian named Giuseppe Vassallo, who died about a year and a half ago . . . promoted this place as a national park because he said it was the best forest in Gabon. He talked about it and lobbied for it and cajoled people,but it just never quite happened. We walked across this block that he'd always talked about, and I actually flew over it with him in '98. We looked at the logging companies coming in from the west at a very rapid rate, and so we tried to design a walk in this place that didn't go through any logging. And we discovered the highest concentration of giant elephants that we'd seen on the entire walk. It's probably the only place left in the central African forest with elephants that are abundant and with a large percentage of every large males—tusks that no one has seen in a very long time, one hundred pounds on a side. Giant elephants—it's something you just don't see because they've been poached out of the population. [And] naive gorillas—something that we hadn't seen on the entire trip. You can tell they're naive because when they see you they don't run away, they don't look alarmed, they don't act alarmed, they don't vocalize. The males don't charge at all and they get very curious. They come to see you and they approach well within the danger zone. They sit there for hours and they just stare as if it's something they've never seen before, and it's pretty obvious that they haven't.

You travel a little bit farther along and there's this mountain that we'd been navigating toward for a few weeks, and it's again full of elephants, and it's got all kinds of beautiful topography and rocky cliffs. It's a real sort of hidden forest, and it really gives you a feeling of great isolation being up on this mountain plateau.

So we started walking south of the mountain and pretty soon we came upon an elephant trail that lead us a little bit astray. It lead us to the east of where we wanted to go but we kept on following it and it just got bigger and bigger and bigger. I looked at the map and it was obvious that it was navigating us right toward a clearing. Long before you get to an elephant clearing you can tell where you're going, because the elephant trail opens up to like two meters wide, it's covered with dung, and there's a huge amount of track that are on these ''highways.'' It's a lot like how major highway arteries in the States get bigger as they go into the city—that's basically what it is for elephants—it's an ''elephant city.'' So, we get there, and there it is—this clearing that no one has ever seen before, no conservationist even could have imagined existed in Gabon. This place is just abounding with wildlife and you think ''This place really is what old Giuseppe said it was.'' Even though he had never walked in it, it was as if he just knew this place was the best. The place is called Langoue and it still exists.

If you look at the map from a land-use perspective though, you realize that the entire block has been given away to many different

logging companies, and they're working their way into Langoue as fast as we can talk. They're going to log that entire area, and there's still about 500,000 hectares [1,235,500 acres] that are completely virgin, untouched forest. But because of the sheer number of logging companies in there, the potential to log that block completely very quickly is very high. So we're launching a campaign with the government and the logging companies and the conservation community and with the general public to try and create a national park in this place. That means pushing back time. That means going back in time essentially four or five years [ago], when there were no logging concessions in this place. And that's difficult to do. And it's expensive.

NG News: How much money are you looking to raise?

Fay: Well, if we had three and a half million dollars today, right now, we can go into Gabon tomorrow and negotiate the logging rights for those concessions and maybe preserve 300,000 hectares [741,000 acres] of that forest, which includes those native gorillas, the giant elephants, the clearing on the mountain and the waterfalls. We could start that process quite easily tomorrow. But surprisingly, finding three and a half million dollars for conservation, in this world that has too much money, is very difficult.

NG News: Where have you been looking for funding?

Fay: Everywhere. You know, we don't have a major coordinated fund-raising effort that we're investing lots of money into. We're trying to do it on the cheap, I guess you could say. We're trying to use the media coverage that we've received and use the connections that we have from a number of sources. We have raised well over a million dollars already, but we . . . need three and a half million dollars, and without it we're not gonna get that national park. . . . When you look at the exploitation of the resources in those countries it's not done for the consumption of Gabonese or Congolese, it's done primarily for the consumption of Americans, Asians, and Europeans. And people need to be responsible for that. They can't just blithely keep going farther afield and exploiting the wilderness without having to pay some attention to that fact, without having to pay up. . . . We get all upset when the U.S. government wants to go drilling in [the Arctic National Wildlife Refuge]. But when an oil company wants to drill in the most pristine place in Gabon, we don't say ''boo.'' And that has to change. People need to be responsible globally if they're going to exploit globally. It has to be a two-way street.

NG News. How do you propose to monitor the park and protect it from such threats as poaching, logging, and bushmeat hunting?

Fay: It's that double-edged sword again. The place is very isolated right now. So we're looking at a four-pronged approach. The first prong was to basically get a team on the ground . . . to protect that clearing and get a presence in there that says to people, ''There's somebody looking after this place.'' People have taken an interest in it, people have recognized that it's something that needs to be protected. . . . We have money from the U.S. Fish and Wildlife Service to establish a camp and a team on the ground. So that's prong number one.

Prong number two is the buy-back. We need to negotiate with logging companies and with the Gabonese government to find out how much it is going to cost and which blocks we can get. We're dealing with ten different blocks, each about 25,000 hectares (62,000 acres) . . . and each one takes a separate negotiation essentially. We have the green light from the Gabonese forestry minister to start this process.

The third prong of the effort is to establish a trust fund so that management will take place there in the long term. Trust funds not only create a situation where you can get funding for a place like that, but you also have a much broader management base . . . because if there's an international trust fund then there's an international board. And if there's an international board, people are going to be interested in keeping this place in a state that this fund was set up to preserve. Over the years national governments in Africa have shown great interest and have collaborated in international conservation efforts in their countries. This is seen as positive and we have had great success in the past with these associations.

And then the fourth thing is to actually establish a long-term presence on the ground, which again requires some sort of international collaboration between the conservation organization and the national government. It relies on funding from the outside rather than inside the country. We have a grant to pay for the ground action for the next three years and the effort to negotiate the national park. So we're making pretty good progress on our four prongs. But we've only completed about 10 to 30 percent of the 100 percent that we need to go on all four of those demands. So, there's still a lot of work to be done.

There are some positive elements to build on. Along the megatransect route there are already some protected areas. The idea is to preserve and fully protect about one tenth of the entire forest. We need to be pragmatic by setting reasonable targets that we can accomplish.

CONSERVATION INTERNATIONAL,
Washington, DC, June 26, 2002.

Hon. BILL FRIST,
U.S. Senate, 416 Russell Senate Office Building, Washington, DC

DEAR SENATOR FRIST: Conservation International applauds your leadership in sponsoring legislation to strengthen the Tropical Forest Conservation Act (TFCA). Through making nonconcessional debt eligible for TFCA treatment, this legislation paves the way for substantial conservation gains by allowing additional countries to participate in debt-for-nature swaps.

Gabon is a good example. The country contains some of the world's most pristine and biologically important tropical forests—forests that shelter an incredible diversity of wildlife including populations of gorillas and chimpanzees so wild as to never before have encountered human beings. Protecting Gabon's forests is an urgent priority of the conservation community. It is also important to Gabon's future. These forests are essential to maintaining hydrological patterns, protecting water quality and quantity, and offering development opportunities in the form of a potentially significant exotourism market. As you well know, their exploitation poses an additional risk of exposing human beings to deadly disease. In fact, the most recent Ebola outbreak occurred in Gabon.

Gabon should be a strong candidate for debt relief under the Tropical Forest Conservation Act: it has abundant, critical, and threatened tropical forests; it has a stable political regime; it seeks resources for conservation; and it owes debts to the United States. Unfortunately, the TFCA's narrow construction prohibits Gabon from seeking debt treatment under the Act. Your legislation would change this.

Conservation International has a long history of participating in debt-for-nature swaps and has significant private resources to bring to the table in support of public/private partnerships under the TFCA. In fact, we recently worked with The Nature Coservancy and World Wildlife Fund to contribute a total of $1.1 million to a TFCA deal in Peru, which leveraged $5.5 million in U.S. Government funds and generated $10.6 million in local currency payments for conservation of Peru's forests. With passage of your legislation. CI anticipates additional opportunities to work with the U.S. and key tropical forest countries to simultaneously achieve conservation and debt relief.

Thank you once again for your leadership.

Sincerely,

NICHOLAS LAPHAM,
Senior Director for Policy.

By Mr. BINGAMAN:

S. 2696. A bill to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am pleased to introduce the Albuquerque Biological Park Title Clarification Act. This bill would assist the City of Albuquerque, NM by clearing its title to two parcels of land located along the Rio Grande. More specifically, it would allow the city to move forward with its plans to improve the properties as part of a Biological Park Project, a city funded initiative to create a premier environmental educational center for its citizens and the entire State of New Mexico.

The Biological Park Project has been in the works since 1987 when the city began to develop an aquarium and botanic garden along the banks of the Rio Grande. The facilities constitutes just a portion of the overall project. In pursuit of the balance of the project, the city, in 1997, purchased two properties from the Middle Rio Grande Conservancy District, MRGCD, for $3,875,000. The first property, Tingley Beach, had been leased by the city from MRGCD since 1931 and used for public park purposes. The second property, San Gabriel Park, had been leased by the city sine 1963, and also used for public park purposes.

In the year 2000, the city's plan were interrupted when the U.S. Bureau of Reclamation claimed that in 1953 it had acquired ownership of all of MRGCD's property that is associated with the Middle Rio Grande Project. The United States' assertion called into question the validity of the 1997 transaction between the city and MRGCD. Both MRGCD and the city dispute the United States' claim of ownership.

This dispute is delaying the city's progress in developing the Biological Park Project. If the matter is simply left to litigation, the delay will be both indefinite and unnecessary. Reclamation has already determined that the two properties are surplus to the needs of the Middle Rio Grande Project. Moreover, this history of this issue indicates that Reclamation had once considered releasing its interest in the properties for $1.00 each. Obviously, the Federal interest in these properties is low while the local interest is very high. Moreover, this bill would address

only the status of the two properties at issue. The general dispute concerning title to project works is left for the courts to decide.

I hope my colleagues will work with me to help resolve this issue which is important to the citizens of my state. While much of what we do here in the Congress is complex and time-consuming work, we should also have the ability to move quickly when necessary and appropriate to solve local problems caused by federal actions. I therefore urge my colleagues to support 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. 2696

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Albuquerque Biological Park Title Clarification Act''.

SEC 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that:

(1) In 1997, the City of Albuquerque, New Mexico paid $3,875,000 to the Middle Rio Grande Conservancy District to acquire two parcels of land known as Tingley Beach and San Gabriel Park.

(2) The City intends to develop and improve Tingley Beach and San Gabriel Park as part of its Albuquerque Biological Park Project.

(3) In 2000, the City's title to Tingley Beach and San Gabriel Park was clouded by the Bureau of Reclamation's assertion that MRGCD had earlier transferred its assets, including Tingley Beach and San Gabriel Park, to the United States as part of a 1953 grant of easement associated with the Middle Rio Grande Project.

(4) The City's ability to continue developing the Albuquerque Biological Park Project has been hindered by the cloud on its title.

(5) The United States' claim of ownership is disputed by the City and MRGCD in *Rio Grande Silvery Minnow* v. *John W. Keys, III,* No. CV 99–1320 JP/RLP–ACE (D. N.M. filed Nov. 15 1999).

(6) Tingley Beach and San Gabriel Park are surplus to the needs of the Middle Rio Grande Project.

(b) PURPOSE.—The purpose of this Act is to disclaim on behalf of the United States, any right, title, and interest it may have in and to Tingley Beach and San Gabriel Park, thereby removing the cloud on the City's title to these lands.

SEC. 3. DEFINITIONS.

In this Act:

(a) CITY.—The term ''City'' means the City of Albuquerque, New Mexico.

(b) MIDDLE RIO GRANDE CONSERVANCY DISTRICT.—The terms ''Middle Rio Grande Conservancy District'' and ''MRGCD'' mean a political subdivision of the State of New Mexico, created in 1925 to provide and maintain flood protection and drainage, and maintenance of ditches, canals, and distribution system for irrigation in the Middle Rio Grande Valley.

(c) MIDDLE RIO GRANDE PROJECT.—The term ''Middle Rio Grande Project'' means the federal reclamation project on the Middle Rio Grande authorized by the Flood Control Act of 1948 (Public Law 80–858; 62 Stat. 1179) and the Flood Control Act of 1950 (Public Law 81–516).

(d) SAN GABRIEL PARK.—The term ''San Gabriel Park'' means the tract of land containing 40.2236 acres, more or less, situated within Section 12, and Section 13, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

(e) TINGLEY BEACH.—The term ''Tingley Beach'' means the tract of land containing 25.2005 acres, more or less, situated within Section 13 and Section 24, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

SEC. 4. DISCLAIMER OF PROPERTY INTEREST.

(a) IN GENERAL.—As of the date of enactment of this Act, the United States—

(1) disclaims any right, title, and interest it may have in and to Tingley Beach and San Grabiel Park; and

(2) recognizes as valid the special warranty deeds dated November 25, 1997, conveying Tingley Beach and San Gabriel Park from MRGDC to the City.

(b) OTHER FEDERAL ACTION.—The Secretary of the Interior shall take any and all actions to ensure that future maps, property descriptions, or other documents generated in association with the Middle Rio Grande Project, are consistent with this Act.

SEC. 5. OTHER RIGHTS, TITLE, AND INTERESTS UNAFFECTED.

(a) IN GENERAL.—Except as expressly provided in section 4, nothing in this Act shall be construed to affect any right, or interest in and to any land associated with the Middle Rio Grande Project.

(b) ONGOING LITIGATION.—Nothing contained in this Act shall be construed to affect or otherwise interfere with any position set forth by any party in the lawsuit pending before the United States District Court for the District of New Mexico, No. CV 99–1320 JP/RLP–ACE, entitled *Rio Grande Silvery Minnow* v. *John W. Keys, III,* concerning the right, title, or interest in and to any property associated with the Middle Rio Grande Project.

By Mr. REID (for himself, Mrs. BOXER, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. SARBANES):

S. 2697. A bill to require the Secretary of the Interior to implement the final rule to phase out snowmobile use in Yellowstone National Park, John D. Rockefeller, Jr. Memorial Parkway, and Grant Teton National Park, and snowplane use in Grand Teton National Park; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, in Yellowstone National Park last winter, park rangers wore respirators. This isn't some kind of a joke, this is the truth. In Yellowstone National Park, the park rangers wore respirators because the air was so clouded and fogged with the pollution from snowmobiles that they had to do that to preserve their health.

Ealier this week, the Bush administration decided to open Yellowstone and Grand Teton National Parks to snowmobile traffic. In doing so, they chose to ignore an avalanche of public comments that strongly supported the banning of snowmobiles in these two magnificent national parks. They chose pollution over protection.

Mr. President, this isn't the first failing grade of this administration's environmental report card. I am sorry to say it probably won't be the last. It is, however, particularly disappointing in light of the Yellowstone National Park's importance to the American people.

Today, I join with Senators BOXER, CLINTON, and LIEBERMAN to introduce the Yellowstone Protection Act to shield America's first national park from a relapse of damaging snowmobile traffic.

Congressmen RUSH HOLT and CHRISTOPHER SHAYS are introducing a similar bill in the House of Representatives today. I salute them for their bipartisan leadership on this most important issue.

When Congress established the National Park Service, we directed it to ''conserve the scenery and the natural and historic objects and the wildlife'' of our parks ''unimpaired for the enjoyment of future generations.''

Mr. President, I have given speeches talking about Government and the things we should be proud of. Near the top of the list every time is our national park system. We are the envy of the world with these magnificent parks, as well we should be. To think that people who work in the parks must wear respirators because of the smog caused by snowmobiles, that is hard to imagine.

In January of 2001, the National Park Service did the right thing. Wisely, it adopted a rule to phase out snowmobile use in the park. After carefully studying the science, examining the law, and reviewing the comments of the American people, it determined—the Park Service did—that the use of snowmobiles was inconsistent with the mission of Yellowstone National Park.

Yet despite that historic decision and the overwhelming evidence that led to it, despite the science the EPA said was among the best it had ever seen, despite the support of over 80 percent of the people commenting on this issue, the National Park Service, under pressure from the administration and special interests, decided on Tuesday to roll back this commonsense rule.

The Bush administration chose to ignore science, environmental laws, and public opinion.

The Yellowstone Protection Act simply codifies the original National Park Service rule that would have banned snowmobiles in the park.

Yellowstone Park is the birthplace of our park system. Congress created the National Park Service to protect Yellowstone and other parks.

Yellowstone Park should serve as a guiding light for our protection of natural resources, not as a canary in a coal mine.

Today, we must act to protect Yellowstone just as our forefathers did in 1872, when they established this magnificent national park. They made a

farsighted decision to guarantee that each new generation would inherit a healthy and vibrant Yellowstone.

This Congress must step forward to uphold what Congress began 130 years ago.

This legislation requires the management of Yellowstone and Grand Teton National Parks to be guided by law and informed by science, not dictated and directed by special interests.

We have suffered through the work that has been done by the Bush administration with the environment—whether it is arsenic in the water, whether it is stopping children from having their blood tested for lead, whether it is making it easier for power generators to dump millions of tons of pollutants in the air, whether it is easing up on Superfund legislation, refusing to fund Superfund legislation—all these things you would think would be enough. But, no, it is not enough. Now they have to say that Smokey the Bear must wear a respirator. I think that is too much.

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. 2697

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 ''Yellowstone Protection Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The January 22, 2001, rule phasing out snowmobile use in Yellowstone National Park, Grand Teton National Park, and the John D. Rockefeller, Jr. Memorial Parkway was made by professionals in the National Park Service who based their decision on law, 10 years of scientific study, and extensive public process.

(2) An environmental impact statement that formed the basis for the rule concluded that snowmobile use is impairing or adversely impacting air quality, natural soundscapes, wildlife, public and employee health and safety, and visitor enjoyment. According to the Environmental Protection Agency, the environmental impact statement had ''among the most thorough and substantial science base that we have seen supporting a NEPA document''.

(3) The National Park Service concluded that snowmobile use is violating the mission given to the agency by Congress--to manage the parks ''in such manner and by such means as will leave them unimpaired for the enjoyment of future generations''. The National Park Service also found that snowmobile use is ''inconsistent with the requirements of the Clean Air Act, Executive Orders 11644 and 11989 [by Presidents Nixon and Carter, relating to off-road vehicle use on public lands], the NPS's general snowmobile regulations and NPS management objectives for the parks''.

(4) In order to maintain winter visitor access, the Park Service outlined a plan to use the already existing mode of winter transportation know as snowcoaches, which are mass transit, oversnow vehicles similar to vans. The final rule states that a snowcoach transit system ''would reduce adverse impacts on park resources and values, better provide for public safety, and provide for public enjoyment of the park in winter''.

(5) The National Park Service Air Resources Division determined that despite being outnumbered by automobiles 16 to 1 during the course of a year, snowmobiles produce up to 68 percent of Yellowstone's carbon monoxide pollution and up to 90 percent of the park's annual hydrocarbon emissions.

(6) Noise from snowmobiles routinely disrupts natural sounds and natural quiet at popular Yellowstone attractions. A February 2000 ''percent time audible'' study found snowmobile noise present more than 90 percent of the time at 8 of 13 sites.

(7) In Yellowstone's severe winter climate, snowmobile traffic regularly disturbs and harasses wildlife. In October 2001, 18 eminent scientists warned the Secretary of the Interior that ''ignoring this information would not be consistent with the original vision intended to keep our national parks unimpaired for future generations''. National Park Service regulations allow snowmobile use only when that use ''will not disturb wildlife . . .'' (36 CFR 2.18(c)).

(8) At Yellowstone's west entrance, park rangers and fee collectors suffer from symptoms of carbon monoxide poisoning due to snowmobile exhaust. According to National Park Service records, in December 2000, a dozen park employees filed medical complaints citing sore throats, headaches, lethargy, eye irritation, and tightness in the lungs. Their supervisor requested more staff at the west entrance, not because of a need for additional personnel to cover the work there, but so the supervisor could begin rotating employees more frequently out of the ''fume cloud'' for the sake of their health. In 2002, for the first time in National Park history, rangers were issued respirators to wear while performing their duties.

(9) The public opportunity to engage in the environmental impact study process was extensive and comprehensive. During the 3-year environmental impact study process and rulemaking, there were 4 opportunities for public consideration and comment. The Park Service held 22 public hearings in regional communities such as West Yellowstone, Cody, Jackson, and Idaho Falls, and across the Nation. The agency received over 70,000 individual comments. At each stage of the input process, support for phasing out snowmobiles grew, culminating in a 4-to-1 majority in favor of the rule in early 2001. More recently, 82 percent of those commenting wrote in favor of the National Park Service decision to phase out snowmobile use in the parks.

SEC. 3. FINAL RULE CODIFIED.

Beginning on the date of the enactment of this Act, the Secretary of the Interior shall implement the final rule to phase out snowmobile use in Yellowstone National Park, the John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park, and snowplane use in Grand Teton National Park, as published in the Federal Register on January 22, 2001 (66 Fed. Reg. 7260–7268). The Secretary shall not have the authority to modify or supersede any provision of that final rule.

By Mr. ROCKEFELLER:

S. 2698. A bill to establish a grant program for school renovation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER:

S. 2699. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, today I am introducing two bills aimed at addressing our national school infrastructure crisis. Schools across America have been allowed to fall into ill repair, and in some school districts, there is a serious need for new school construction.

The Department of Education has found that the average age of a public school building in this country is 42 years old, an age when buildings tend to deteriorate. In 1995, the GAO found that the unmet need for school construction and renovation in the United States was a staggering $112 billion.

When our schools are in poor condition, our children suffer and our Nation suffers. Studies have shown that children in well-kept schools perform better than children in deteriorating buildings. Certainly our children deserve the advantages that come with studying in a safe, clean, modern environment. The state of our schools is unacceptable, and it is our responsibility to do all we can to remedy this situation.

These bills are the first pieces of my education agenda for 2002. In addition to investing in school construction, we must also invest in school leadership. Within the next few weeks, I intend to promote initiatives for school principals and incentives to recruit and retain teachers. School leadership will be essential in meeting the higher standards set by our new Leave No Child Behind Act, and principals play a pivotal role. I will be pushing legislation to ensure that we invest in leadership programs to help principals be bold leaders of reform. Also, I intend to introduce tax incentives to reward highly qualified teachers as a way to recruit and retain the best and the brightest for our classrooms. Building leadership among principals and teachers is as essential to quality education as modern schools.

These efforts build on my ongoing education efforts on math and science and technology. In 1996, I was proud to sponsor the E-Rate program with Senator SNOWE to connect our classroom to the Internet because our students must be connected to modern technology to gain the skills needed for the 21st century. This year, I am working hard to enact the National Math and Science Partnership Act to authorize almost a $1 billion a year for five years for the National Science Foundation to invest in promoting quality math and science education. The combination of these legislative initiatives should help provide the essential resources and leadership necessary to achieve our education goals.

I can see the effects of deteriorating school buildings in my State of West Virginia. There alone, the need for school construction, renovation, and repair is rapidly approaching a staggering $2 billion over the next 10 years, a sum West Virginia cannot meet without assistance.

West Virginia has, in the past, benefitted greatly from Federal programs designed to improve the quality of school buildings, and the money we've received has been put to excellent use. Funding made available by the Qualified Zone Academy Bond program, a program in which the Federal Government authorizes the states to sell school construction bonds and then pays the interest to the bond holders, has provided my state with over $4 million in bond funding since 1998. This money has been used to renovate science labs, install wireless computer equipment, remove asbestos, and provide modular classrooms, among many other valuable projects. Another program, a direct funding initiative included in the FY 2001 final budget agreement, has also been a great success in West Virginia and across the nation.

Many schools in my State are unable to take advantage of school bondings because some local communities are so needy that they cannot afford even the low- or no-interest loans that program makes available. And when areas which are already disadvantaged are hit with natural disasters, such as the heartbreaking catastrophic flooding West Virginia has now suffered two years in a row, school districts cannot be expected to keep up with their infrastructure needs.

The direct funding initiative in the 2001 budget made $1.2 billion in grants available for emergency school renovation and repair and technology improvements across America. West Virginia was fortunate to receive nearly $8 million in funding from the program, enabling our schools to replace roofs, fix faulty wiring and sewage systems, remove asbestos, and make themselves better prepared for fire emergencies.

The success stories from these programs prove that we can make a real impact in the quality of schools in our nation. I am proud to introduce two bills today designed to build upon these past successes: the America's Better Classroom Act and the Building Our Children's Future Act.

The America's Better Classroom Act is designed to expand and build upon the success of the Qualified Zone Academy Bond, or the QZAB program. It expands this program by $2.8 billion so even more school districts will be able to take advantage of the low-or no-interest school construction loans that it provides. QZAB's are aimed at schools in disadvantaged areas. To qualify, a school must be located in an empowerment zone, enterprise community, or 35 per cent of its students must be eligible for free or reduced lunch.

In addition to expanding the QZAB program, the America's Better Classroom Act creates a new $22 billion bonding program designed to help all school districts meet their renovation needs. Funding to states will be allocated based on the Title I funding formula. In this way, many more school districts will have the opportunity to reap the benefits of no- or low-interest loans for school renovation and repair. This legislation is similar to a House bill sponsored by Congresswoman NANCY JOHNSON and Congressman CHARLIE RANGEL. I look forward to working with the House colleagues on this crucial program.

The second bill I introduce today is the Building Our Children's Future Act, a $5 billion initiative designed to help schools that, due to poverty, high growth, or unforseen disaster, are unable to meet their repair and renovation needs. Many districts that are facing these difficult challenges find themselves so strapped that they cannot even afford to pay back the principle on an interest-free loan. These areas need direct help, and this grant program provides it.

The Building Our Children's Future Act gives each State funding based on Title I, with a priority to target funding to schools that have been damaged or destroyed by a natural disaster or are located in a high poverty or high growth areas, defined by the state. This makes certain that states have the flexibility to put the money where it is needed the most.

The bill also recognizes that not all renovation needs are the same. In the 21st century, providing students and teachers with access to technology will be a critical part of keeping schools up-to-date. Likewise, we have made a commitment to assist states in covering the costs of special education, a commitment that will undoubtedly require renovation and construction to accommodate special needs. For this reason, the Building Our Children's Future Act sets aside a portion of its funds for states to make technology improvements and carry out programs under the Individuals with Disabilities Education Act.

Finally, the Building Our Children's Future Act also makes money available to schools with high Native American populations and schools located in outlying areas, so that no group will be left behind as we seek to remedy our school infrastructure crisis.

I believe that America's Better Classroom Act and the Building Our Children's Future Act are important steps toward giving our children the learning environments they deserve. When our schools are in disrepair, we cannot expect our educational system to be any different. I hope you will join me in supporting these two bills and, in doing so, join me in supporting the futures of our children and our Nation.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 293—DESIGNATING THE WEEK OF NOVEMBER 10 THROUGH NOVEMBER 16, 2002, AS ''NATIONAL VETERANS AWARENESS WEEK'' TO EMPHASIZE THE NEED TO DEVELOP EDUCATIONAL PROGRAMS REGARDING THE CONTRIBUTIONS OF VETERANS TO THE COUNTRY

Mr. BIDEN (for himself, Mr. THURMOND, Mr. CONRAD, Mr. CLELAND, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. MILLER, Mr. DEWINE, Mr. COCHRAN, Mr. DURBIN, Mr. LUGAR, Ms. COLLINS, Mr. SESSIONS, Mr. KERRY, Mr. BREAUX, Mr. DODD, Mr. DORGAN, Mr. HELMS, Mr. BAUCUS, Mrs. BOXER, Mr. JOHNSON, Ms. LANDRIEU, Mr. GRASSLEY, Mr. ROBERTS, Mr. LEVIN, Mr. REID, Mr. LEAHY, Mr. MCCAIN, Mr. HOLLINGS, Mr. SARBANES, Mr. VOINOVICH, Mr. INHOFE, Mrs. MURRAY, Mr. GREGG, Ms. MIKULSKI, Mr. DOMENICI, Mr. HUTCHINSON, Mrs. LINCOLN, Mr. SANTORUM, Mr. CRAPO, Mr. BUNNING, Mr. CRAIG, Mr. STEVENS, Mr. AKAKA, Mr. NELSON of Florida, Mr. CARPER, Mr. INOUYE, Mr. HAGEL, Mr. FEINGOLD, Mr. WARNER, Mr. BINGAMAN, and Mr. DAYTON) submitted the following resolution; which was referred to the Committee on the Judiciary

S. RES. 293

Whereas tens of millions of Americans have served in the Armed Forces of the United States during the past century;

Whereas hundreds of thousands of Americans have given their lives while serving in the Armed Forces during the past century;

Whereas the contributions and sacrifices of the men and women who served in the Armed Forces have been vital in maintaining our freedoms and way of life;

Whereas the advent of the all-volunteer Armed Forces has resulted in a sharp decline in the number of individuals and families who have had any personal connection with the Armed Forces;

Whereas this reduction in familiarity with the Armed Forces has resulted in a marked decrease in the awareness by young people of the nature and importance of the accomplishments of those who have served in our Armed Forces, despite the current educational efforts of the Department of Veterans Affairs and the veterans service organizations;

Whereas our system of civilian control of the Armed Forces makes it essential that the future leaders of the Nation understand the history of military action and the contributions and sacrifices of those who conduct such actions; and

Whereas on October 30, 2001, President George W. Bush issued a proclamation urging all Americans to observe November 11 through November 17, 2001, as National Veterans Awareness Week: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of November 10 through November 16, 2002, as ''National Veterans Awareness Week'' for the purpose of emphasizing educational efforts directed at elementary and secondary school students concerning the contributions and sacrifices of veterans; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe National Veterans

Awareness Week with appropriate educational activities.

Mr. BIDEN. Mr. President, today I have the honor of joining with 50 of my colleagues in submitting a resolution expressing the sense of the Senate that the week that includes Veterans' Day this year be designated as ''National Veterans Awareness Week.'' This marks the third year in a row that I have introduced such a resolution, which has been adopted unanimously by the Senate on both previous occasions.

The purpose of National Veterans Awareness Week is to serve as a focus for educational programs designed to make students in elementary and secondary schools aware of the contributions of veterans and their importance in preserving American peace and prosperity. This goal takes on particular importance and immediacy this year as we find ourselves at war in the wake of the attack against us on our own territory.

Why do we need such an educational effort? In a sense, this action has become necessary because we are victims of our own success with regard to the superior performance of our armed forces. The plain fact is that there are just fewer people around now who have had any connection with military service. For example, as a result of tremendous advances in military technology and the resultant productivity increases, our current armed forces now operate effectively with a personnel roster that is one-third less in size than just 10 years ago. In addition, the success of the all-volunteer career-oriented force has led to much lower turnover of personnel in today's military than in previous eras when conscription was in place. Finally, the number of veterans who served during previous conflicts, such as World War II, when our military was many times larger than today, is inevitably declining.

The net result of these changes is that the percentage of the entire population that has served in the Armed Forces is dropping rapidly, a change that can be seen in all segments of society. Whereas during World War II it was extremely uncommon to find a family in America that did not have one of its members on active duty, now there are numerous families that include no military veterans at all. As a consequence of this lack of opportunity for contacts with veterans, many of our young people have little or no connection with or knowledge about the important historical and ongoing role of men and women who have served in the military. This omission seems to have persisted despite ongoing educational efforts by the Department of Veterans Affairs and the veterans service organizations.

This lack of understanding about military veterans' important role in our society can have potentially serious repercussions. In our country, civilian control of the armed forces is the key tenet of military governance. A citizenry that is oblivious to the capabilities and limitations of the armed forces, and to its critical role throughout our history can make decisions that have unexpected and unwanted consequences. Even more important, general recognition of the importance of those individual character traits that are essential for military success, such as patriotism, selflessness, sacrifice and heroism, is vital to maintaining these key aspects of citizenship in the armed forces and even throughout the population at large.

Among today's young people, a generation that has grown up largely during times of peace and extraordinary prosperity and has embraced a ''me first'' attitude, it is perhaps even more important to make sure that there is solid understanding of what it has taken to attain this level of comfort and freedom. Even in the midst of our ongoing war against terrorism, with Americans in uniform finding themselves in harm's way around the world, many young people seem to be totally divorced from the implications of the conflict that is raging.

The failure of our children to understand why a military is important, why our society continues to depend on it for ultimate survival, and why a successful military requires integrity and sacrifice, will have predictable consequences as these youngsters become of voting age. Even though military service is a responsibility that is no longer shared by a large segment of the population, as it has been in the past, knowledge of the contributions of those who have served in the Armed Forces is as important as it has ever been. To the extent that many of us will not have the opportunity to serve our country in uniform, we must still remain cognizant of our responsibility as citizens to fulfill the obligations, we owe, both tangible and intangible, to those who do serve and who do sacrifice on our behalf.

The importance of this issue was brought home to me two years ago by Samuel I. Cashdollar, who was then a 13-year-old seventh grader at Lewes Middle School in Lewes, DE. Samuel won the Delaware VFW's Youth Essay Contest that year with a powerful presentation titled ''How Should We Honor America's Veterans?'' Samuel's essay pointed out that we have Nurses' Week, Secretaries' Week, and Teachers' Week, to rightly emphasize the importance of these occupations, but the contributions of those in uniform tend to be overlooked. We don't want our children growing up to think that Veterans Day has simply become a synonym for department store sale, and we don't want to become a Nation where more high school seniors recognize the name Britney Spears than the name Dwight Eisenhower.

National Veterans Awareness Week complements Veterans Day by focusing on education as well as commemoration, on the contributions of the many in addition to the heroism and service of the individual. National Veterans Awareness Week also presents an opportunity to remind ourselves of the contributions and sacrifices of those who have served in peacetime as well as in conflict; both groups work unending hours and spend long periods away from their families under conditions of great discomfort so that we all can live in a land of freedom and plenty.

Last year, my resolution designating National Veterans Awareness Week had 58 cosponsors and was approved in the Senate by unanimous consent. Responding to that resolution, President Bush issued a proclamation urging our citizenry to observe National Veterans Awareness Week. I ask my colleagues to continue this trend of support for our veterans by endorsing this resolution again this year. Our children and our children's children will need to be well informed about what veterans have accomplished in order to make appropriate decisions as they confront the numerous worldwide challenges that they are sure to face in the future.

SENATE RESOLUTION 294—TO AMEND RULE XLII OF THE STANDING RULES OF THE SENATE TO PROHIBIT EMPLOYMENT DISCRIMINATION IN THE SENATE BASED ON SEXUAL ORIENTATION

Mrs. FEINSTEIN (for herself, Mr. SPECTER, Mr. DASCHLE, Mr. DODD, Mr. TORRICELLI, Mr. FEINGOLD, Mr. DAYTON, Ms. STABENOW, Mr. DURBIN, Mr. JEFFORDS, Mr. KENNEDY, Mr. INOUYE, Ms. CANTWELL, Mr. LEAHY, Mr. WYDEN, Mrs. BOXER, Mr. REED, Mr. AKAKA, Mr. HARKIN, Mrs. CLINTON, Mr. REID, Mrs. MURRAY, Mr. CORZINE, Mr. BINGAMAN, Ms. MIKULSKI, Mr. BAYH, Mr. LEVIN, Mr. WELLSTONE, Mr. KERRY, Ms. COLLINS, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. EDWARDS, Mr. SMITH of Oregon, Mr. BIDEN, Mr. SCHUMER, Mr. CHAFEE, Mr. SARBANES, Mr. KOHL, Mrs. CARNAHAN, Mr. CARPER, Mr. NELSON of Florida, and Mr. CLELAND) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 294

Resolved,

SECTION 1. AMENDMENT TO THE STANDING RULES OF THE SENATE.

Paragraph 1 of rule XLII of the Standing Rules of the Senate is amended by striking ''or state of physical handicap'' and inserting ''state of physical handicap, or sexual orientation''.

Mrs. FEINSTEIN. Mr. President, I rise today to submit a resolution to prohibit employment discrimination in the United States Senate based on sexual orientation.

The resolution would amend the Standing Rules of the Senate by adding ''sexual orientation'' to ''race, color, religion, sex, national origin, age, or state of physical handicap'' in the anti-discrimination provision of rule 42, which governs the Senate's employment practices.

I am very pleased that 41 of my colleagues, Senators SPECTER, DASCHLE, DODD, TORRICELLI, FEINGOLD, DAYTON, STABENOW, DURBIN, JEFFORDS, KENNEDY, INOUYE, CANTWELL, LEAHY, WYDEN, BOXER, REED, AKAKA, HARKIN, CLINTON, REID, MURRAY, CORZINE, BINGAMAN, MIKULSKI, BAYH, LEVIN, WELLSTONE, KERRY, COLLINS, LIEBERMAN, LANDRIEU, EDWARDS, SMITH of Oregon, BIDEN, SCHUMER, CHAFEE, SARBANES, KOHL, CARNAHAN, CARPER, and NELSON of Florida, have joined me in submitting this resolution today.

By amending the current rule, it would forbid any Senate member, officer or employee from terminating, refusing to hire, or otherwise discriminating against an individual with respect to promotion, compensation, or any other privilege of employment, on the basis of that individual's sexual orientation.

Senate employees currently have no recourse available to them should they become a victim of this type of employment discrimination.

If the rules are amended, any Senate employee that encountered discrimination based on their sexual orientation would have the option of reporting it to the Senate Ethics Committee. The Ethics Committee could then investigate the claim and recommend discipline for any Senate member, officer or employee found to have violated the rule.

Unfortuantely, the Senate is already well behind other establishments of the U.S. Government in this area of anti-discrimination.

By 1996, at least 13 cabinet level agencies, including the Departments of Justice, Agriculture, Transportation, Health and Human Services, Interior, Housing and Urban Development, Labor, and Energy, in addition to the General Accounting Office, General Services Administration, Internal Revenue Service, the Federal Reserve System, Office of Personnel Management, and the White House had already issued policy statements forbidding sexual orientation discrimination.

In 1998, Executive Order 13087 was issued to prohibit sexual orientation discrimination in the Federal executive branch, including civilian employees of the military departments and sundry other governmental entities.

That Executive order now covers approximately 2 million Federal civilian workers, yet, four years later, there are still employees of the United States Senate that are unprotected.

In taking this step toward addressing discrimination, the Senate would join not only the Executive Branch, but also 294 Fortune 500 companies, 23 State governments and 252 local governments that have already prohibited workplace discrimination based on sexual orientation.

Currently, at least 68 Senators have already adopted written policies for their congressional offices indicating that sexual orientation is not a factor in their employment decisions.

Now, I urge my colleagues to join me by making this policy universal for the Senate, rather than relying on a patchwork of protection that only covers some of the Senate's employees.

SENATE RESOLUTION 295—COMMEMORATING THE 32ND ANNIVERSARY OF THE POLICY OF INDIAN SELF-DETERMINATION

Mr. CAMPBELL (for himself, Mr. AKAKA, Mr. DOMENICI, Mr. COCHRAN, and Ms. STABENOW) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 295

Whereas the United States of America and the Sovereign Indian Tribes contained within its boundaries have had a long and mutually beneficial relationship since the beginning of the Republic.

Whereas the United States has recognized this special legal and political relationship and its trust responsibility to the Indian Tribes as reflected in the Federal Constitution, treaties, numerous court decisions, Federal statutes, executive orders, and course of dealing;

Whereas Federal policy toward the Indian Tribes has vacillated through history and often failed to uphold the government-to-government relationship that has endured for more than 200 years;

Whereas these Federal policies included the wholesale removal of Indian tribes and their members from their aboriginal homelands, attempts to assimilate Indian people into the general culture, as well as the termination of the legal and political relationship between the United States and the Indian tribes;

Whereas President Richard M. Nixon, in his 'Special Message to Congress on Indian Affairs' on July 8, 1970, recognized that the Indian Tribes constitute a distinct and valuable segment of the American federalist system, whose members have made significant contributions to the United States and to American culture;

Whereas President Nixon determined that Indian Tribes, as local governments, are best able to discern the needs of their people and are best situated to determine the direction of their political and economic futures;

Whereas in his 'Special Message' President Nixon recognized that the policies of legal and political termination on the one hand, and paternalism and excessive dependence on the other, devastated the political, economic, and social aspects of life in Indian America, and had to be radically altered;

Whereas in his 'Special message' President Nixon set forth the foundation for a new, more enlightened Federal Indian policy grounded in economic self-reliance and political self-determination; and

Whereas this Indian self-determination policy has endured as the most successful policy of the United States in dealing with the Indian Tribes because it rejects the failed policies of termination and paternalism and recognized 'the integrity and right to continued existence of all Indian Tribal and Alaska native governments, recognizing that cultural pluralism is a source of national strength';

Now, therefore, be it

Resolved, That the Senate of the United States recognizes the unique role of the Indian Tribes and their members in the United States, and commemorates the vision and leadership of President Nixon, and every succeeding President, in fostering the policy of Indian Self-Determination

Mr. CAMPBELL. Mr. President, I am pleased to submit today a resolution to commemorate the anniversary of a little-noticed but critical event that took place 32 years ago this summer.

In July 1970, President Richard M. Nixon delivered his now-famous ''Special Message to the Congress on Indian Affairs'' that revolutionized how our Nation deals with Native governments and Native people from Florida to Alaska, from Maine to Hawaii.

With centuries of ill-conceived and misdirected Federal policies and practices behind us, I am happy to say that the Nixon Indian policy continues as the bedrock of America's promise to Native Americans.

In his Message to Congress, the President made the case for a more enlightened Federal Indian policy. Citing historical injustices as well as the practical failure of all previous Federal policies regarding Indian Nations, President Nixon called for the rejection of both the ''termination'' policy of the 1950s and the ''excessive dependence'' on the Federal Government by Indian tribes and people fostered by Federal paternalism.

Nixon observed that ''[t]he first Americans—the Indians—are the most deprived and most isolated group in our Nation. On virtually every scale of measurement—employment, income, education, health—the condition of the Indian people rank at the bottom.''

Thirty-two years later, Indians continue to suffer high rates of unemployment, are mired in poverty, and still rank at or near the bottom of nearly every social and economic indicator in the Nation. Nonetheless, there is cause for hope that the conditions of Native Americans are improving, however slowly.

The twin pillars of the policy change initiated in 1970 are political self determination and economic self reliance. Without doubt, the most enduring legacy of the 1970 Message is the Indian self determination policy best embodied in the Indian Self Determination and Education Assistance Act of 1975, amended several times since then.

This Act, which has consistently been supported, promoted, and expanded with bipartisan support, authorizes Indian tribes to assume responsibility for and administer programs and services formerly provided by the Federal Government.

As of 2001, nearly one-half of all Bureau of Indian Affairs, BIA, and Indian Health Service, IHS, programs and services have been assumed by tribes under the Indian Self Determination Act.

With this transfer of resources and decision making authority, tribal governments have succeeded in improving the quality of services to their citizens, developed more sophisticated tribal governing structures and practices, improved their ability to govern, and strengthened their economies.

Self determination contracting and compacting has improved the efficiency of Federal programs and services and at the same time have devolved control over these resources from Washington, DC to the local, tribal governments which are much more in tune with the needs of their own people.

As steps are taken to provide tribes the tools they need to develop vigorous economies and generate tribal revenues, our policy in Congress and across the Federal Government should be to encourage and assist tribes to expand self determination and self governance into other agencies and programs, and in the process help Native people to achieve real and measurable success in improving their standard of living.

The challenge of the Nixon Message was not only to the Federal Government but to the tribes themselves: that by building strong tribal governments and more robust economies, real independence and true self determination can be achieved.

Our experience has shown that any cooperative efforts between the United States and the tribes must include a solemn assurance that the special relationship will endure and will not be terminated because of the fits and starts of periodic economic success enjoyed by some Indian tribes.

President Nixon wisely realized that the mere threat of termination results in a tendency toward an unhealthy dependence on the Federal Government which has plagued Native people for decades. As President Nixon himself knew, Native people are not hapless bystanders in this process. His Message recognized that the story of the Indian in America is one of ''endurance, survival, of adaptation and creativity in the face of overwhelming obstacles.''

The persistence and tenacity of Native people has been the foundation in forging a more enlightened Indian policy and with the assistance of the United States will, I am confident, result in true self determination for Native people in the United States.

I urge my colleagues to join me in recognizing the Nixon Message and our collective efforts over time in making Indian self determination a reality.

SENATE CONCURRENT RESOLUTION 125—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. DASCHLE submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 125

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, June 27, 2002, or Friday, June 28, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Monday, July 8, 2002, or until such other time on that day as may be specified in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, June 27, 2002, Friday, June 28, 2002, or Saturday, June 29, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Monday, July 8, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

SENATE CONCURRENT RESOLUTION 126—EXPRESSING THE SENSE OF CONGRESS REGARDING SCLERODERMA

Mr. REID (for himself, Mr. CRAIG, Mrs. FEINSTEIN, and Ms. STABENOW) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 126

Whereas Scleroderma is a debilitating and potentially fatal autoimmune disease with a broad range of symptoms that may be either localized or systemic;

Whereas Scleroderma may attack vital internal organs, including the heart, esophagus, lungs, and kidneys, and may do so without causing any external symptoms;

Whereas more than 300,000 people in the United States suffer from Scleroderma;

Whereas the symptoms of Scleroderma include hardening and thickening of the skin, swelling, disfigurement of the hands, spasms of blood vessels causing severe discomfort in the fingers and toes, weight loss, joint pain, difficulty swallowing, extreme fatigue, and ulcerations on the fingertips which are slow to heal;

Whereas people with advanced Scleroderma may be unable to perform even the simplest tasks;

Whereas 80 percent of the people suffering from Scleroderma are women between the ages of 25 and 55;

Whereas Scleroderma is the fifth leading cause of death among all autoimmune diseases for women who are 65 years old or younger;

Whereas the wide range of symptoms and localized and systemic variations of Scleroderma make it difficult to diagnose;

Whereas the average diagnosis of Scleroderma is made 5 years after the onset of symptoms;

Whereas the cause of Scleroderma is still unknown and there is no known cure;

Whereas Federal funding for Scleroderma research is less than for other diseases of similar prevalence; and

Whereas the estimated annual direct and indirect costs of Scleroderma in the United States are $1,500,000,000: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) private organizations and health care providers should be recognized for their efforts to promote awareness and research of Scleroderma;

(2) the people of the United States should make themselves aware of the symptoms of Scleroderma and contribute to the fight against Scleroderma;

(3) the Federal Government should promote awareness regarding Scleroderma, adequately fund research projects regarding Scleroderma within the fiscal budget, and continue to consider ways to improve the quality of health care services provided for Scleroderma patients, including making prescription medication more affordable;

(4) the National Institutes of Health should continue to play a leadership role in the fight against Scleroderma by—

(A) working more closely with private organizations and researchers to find a cure for Scleroderma;

(B) funding research projects regarding Scleroderma conducted by private organizations and researchers;

(C) holding a Scleroderma symposium which would bring together distinguished scientists and clinicians from across the United States to determine the most important priorities in Scleroderma research;

(D) supporting the formation of small workgroups composed of experts from diverse but related scientific fields to study Scleroderma;

(E) conducting more genetic, environmental, and clinical research regarding Scleroderma;

(F) training more basic and clinical scientists to carry out such research; and

(G) providing for better dissemination of the information learned from such research; and

(5) the Centers for Disease Control and Prevention should give priority to the establishment of a national epidemiological study to better track the incidence of Scleroderma and to gather information about the disease that could lead to a cure.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4166. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 4167. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 4168. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 4169. Mr. WARNER proposed an amendment to the bill S. 2514, supra.

SA 4170. Mr. WARNER proposed an amendment to the bill S. 2514, supra.

SA 4171. Mr. McCAIN (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 4060 proposed by Mr. WYDEN (for himself and Mr. SMITH of Oregon) to the bill (S. 2514) supra; which was ordered to lie on the table.

SA 4172. Mr. REID (for Mr. LIEBERMAN (for himself and Mr. THOMPSON)) proposed an amendment to the bill S. 803, to enhance the management and promotion of electronic Government services and processes by establishing an Office of Electronic Government within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based

information technology to enhance citizen access to Government information and services, and for other purposes.

TEXT OF AMENDMENTS

SA 4166. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table, as follows:

Strike the matter proposed to be inserted and insert the following:

(a) FISCAL YEAR 2003.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 2003, as follows:

(1) The Army, 480,000.

(2) The Navy, 375,700.

(3) The Marine Corps, 175,000.

(4) The Air Force, 359,000.

(b) AUTHORITY TO EXCEED.—Upon a determination of the Secretary of Defense that it is necessary in the national security interests of the United States, the active duty personnel strengths of the Armed Forces may exceed the authorized strengths provided under paragraphs (1), (2), and (4) of subsection (a) as follows:

(1) For the Army, by not more than 5,000.

(2) For the Navy, by not more than 3,500.

(3) For the Air Force, by not more than 3,500.

SA 4167. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table, as follows:

At the end of subtitle D of title X, add the following:

SEC. 1046. SENSE OF CONGRESS ON ENHANCEMENT OF NATIONAL SECURITY COUNCIL.

(a) FINDINGS.—Congress makes the following findings:

(1) The President received no specific information or warning of the terrorist attacks on September 11, 2001.

(2) Every effort should be taken immediately to prevent a similar failure of intelligence in the future.

(3) In light of the terrorist attacks on September 11, 2001, it is clear that the United States should have a domestic intelligence service as well as a foreign intelligence service.

(4) The Federal Bureau of Investigation moved immediately after September 11, 2001, to organize a domestic intelligence service and coordinate and communicate with the Central Intelligence Agency.

(5) The National Security Council is responsible for providing both domestic and foreign intelligence for the President.

(6) The National Security Council is comprised of the Vice President, the Secretary of State, and the Secretary of Defense, and the National Security Council focuses on international threats and foreign policy.

(7) The National Security Council either failed to receive, or failed to analyze in a timely manner, intelligence that could have facilitated the interdiction of the terrorist attacks on September 11, 2001.

(8) The National Security Council must give equal treatment to homeland security, requiring a flow of timely reports not only from the Central Intelligence Agency and the Defense Intelligence Agency, but also from the Federal Bureau of Investigation, the Customs Services, the Coast Guard, the Border Patrol, the Immigration and Naturalization Service, and other departments and agencies of the Federal Government, as well as domestic law enforcement agencies.

(9) The reorganization and strengthening of the National Security Council should occur immediately and cannot and should not await the establishment of a Department of Homeland Security.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should issue immediately an Executive Order enhancing the National Security Council in order to provide for the more timely delivery of intelligence to, and analysis of intelligence for, the President.

SA 4168. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the Bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —HOMELAND SECURITY INFORMATION SHARING

SEC. 1. SHORT TITLE.

This Act may be cited as the ''Homeland Security Information Sharing Act''.

SEC. 2. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—The Congress finds the following:

(1) The President received no specific information or warning of the terrorist attacks on September 11, 2001.

(2) Every effort should be taken immediately to prevent a similar failure of intelligence in the future.

(3) In light of the terrorist attacks on September 11, 2001, it is clear that the United States should have a domestic intelligence service as well as a foreign intelligence service.

(4) The Federal Bureau of Investigation moved immediately after September 11, 2001, to organize a domestic intelligence service an coordinate and communicate with the Central Intelligence Agency.

(5) The National Security Council is responsible for providing both domestic and foreign intelligence for the President.

(6) The National Security Council is comprised of the Vice President, the Secretary of State, and the Secretary of Defense, and the National Security Council focuses on international threats and foreign policy.

(7) The National Security Council either failed to receive, or failed to analyze in a timely manner, intelligence that could have facilitated the interdiction of the terrorist attacks on September 11, 2001.

(8) The National Security Council must give equal treatment to homeland security, requiring a flow of timely reports not only from the Central Intelligence Agency and the Defense Intelligence Agency, but also from the Federal Bureau of Investigation, the Customs Services, the Coast Guard, the Border Patrol, the Immigration and Naturalization Service, and other departments and agencies of the Federal Government, as well as domestic law enforcement agencies.

(9) The reorganization and strengthening of the National Security Council should occur immediately and cannot and should not await the establishment of a Department of Homeland Security.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should issue immediately an Executive Order enhancing the National Security Council in order to provide for the more timely delivery of intelligence to, and analysis of intelligence for, the President.

SA 4169. Mr. WARNER proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal yer for the Armed Forces, and for other purposes; as follows:

On page 130, between lines 6 and 7, insert the following:

SEC. 604. TEMPORARY AUTHORITY FOR HIGHER RATES OF PARTIAL BASIC ALLOWANCE FOR HOUSING FOR CERTAIN MEMBERS ASSIGNED TO HOUSING UNDER ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) AUTHORITY.—The Secretary of Defense may prescribe and, under section 403(n) of title 37, United States Code, pay for members of the Armed Forces (without dependents) in privatized housing higher rates of partial basic allowance for housing than those that are authorized under paragraph (2) of such section 403(n).

(b) MEMBERS IN PRIVATIZED HOUSING.—For the purposes of this section, a member of the Armed Forces (without dependents) is a member of the Armed Forces (without dependents) in privatized housing while the member is assigned to housing that is acquired or constructed under the authority of subchapter IV of chapter 169 of title 10, United States Code.

(c) TREATMENT OF HOUSING AS GOVERNMENT QUARTERS.—For purposes of section 403 of title 37, United States Code, a member of the Armed Forces (without dependents) in privatized housing shall be treated as residing in quarters of the United States or a housing facility under the jurisdiction of the Secretary of a military department while a higher rate of partial allowance for housing is paid for the member under this section.

(d) PAYMENT TO PRIVATE SOURCE.—The partial basic allowance for housing paid for a member at a higher rate under this section may be paid directly to the private sector source of the housing to whom the member is obligated to pay rent or other charge for residing in such housing if the private sector source credits the amount so paid against the amount owed by the member for the rent or other charge.

(e) TERMINATION OF AUTHORITY.—Rates prescribed under subsection (a) may not be paid under the authority of this section in connection with contracts that are entered into after December 31, 2007, for the construction or acquisition of housing under the authority of subchapter IV of chapter 169 of title 10, United States Code.

SA 4170. Mr. WARNER proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title III, add the following:

SEC. 305. DISPOSAL OF OBSOLETE VESSELS OF THE NATIONAL DEFENSE RESERVE FLEET.

Of the amount authorized to be appropriated by section 301(a)(2) for operation and maintenance for the Navy, $20,000,000 may be available, without fiscal year limitation if so provided in appropriations Acts, for expenses

related to the disposal of obsolete vessels in the Maritime Administration National Defense Reserve Fleet.

SA 4171. Mr. MCCAIN (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 4060 proposed by Mr. WYDEN (for himself and Mr. SMITH of Oregon) to the bill (S. 2514) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, strike lines 1 through 5, and insert the following:

(e) OFFSET.—The amount authorized to be appropriated by section 2601(1)(A), and, within that amount, the amount that is available for a military construction project for a Reserve Center in Lane County, Oregon, are hereby reduced by $4,800,000.

SA 4172. Mr. REID (for Mr. LIEBERMAN (for himself and Mr. THOMPSON)) proposed an amendment to the bill S. 803, to enhance the management and promotion of electronic Government services and processes by establishing an Office of Electronic Government within the Office of Management and Budget, and by establishing a broad framework of measures that require using internet-based information technology to enhance citizen access to Government information and services, and for other purposes; as follows:

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 ''E-Government Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES
Sec. 101. Management and promotion of electronic Government services.
Sec. 102. Conforming amendments.
TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES
Sec. 201. Definitions.
Sec. 202. Federal agency responsibilities.
Sec. 203. Compatibility of Executive agency methods for use and acceptance of electronic signatures.
Sec. 204. Federal Internet portal.
Sec. 205. Federal courts.
Sec. 206. Regulatory agencies.
Sec. 207. Accessibility, usability, and preservation of Government information.
Sec. 208. Privacy provisions.
Sec. 209. Federal Information Technology workforce development.
Sec. 210. Common protocols for geographic information systems.
Sec. 211. Share-in-savings program improvements.
Sec. 212. Integrated reporting study and pilot projects.
Sec. 213. Community technology centers.
Sec. 214. Enhancing crisis management through advanced information technology.
Sec. 215. Disparities in access to the Internet.
Sec. 216. Notification of obsolete or counterproductive provisions.
TITLE III—GOVERNMENT INFORMATION SECURITY
Sec. 301. Information security.
TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES
Sec. 401. Authorization of appropriations.
Sec. 402. Effective dates.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and increase citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function or topic.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires strong leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government information and services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decision-making by policy makers.

(8) To promote access to high quality Government information and services across multiple channels.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

(11) To provide enhanced access to Government information and services in a manner consistent with laws regarding protection of personal privacy, national security, records retention, access for persons with disabilities, and other relevant laws.

TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

''CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

''Sec.
''3601. Definitions.
''3602. Office of Electronic Government.
''3603. Chief Information Officers Council.
''3604. E-Government Fund.
''3605. E-Government report.

''§ 3601. Definitions

''In this chapter, the definitions under section 3502 shall apply, and the term—

''(1) 'Administrator' means the Administrator of the Office of Electronic Government established under section 3602;

''(2) 'Council' means the Chief Information Officers Council established under section 3603;

''(3) 'electronic Government' means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

''(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

''(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

''(4) 'enterprise architecture'—

''(A) means—

''(i) a strategic information asset base, which defines the mission;

''(ii) the information necessary to perform the mission;

''(iii) the technologies necessary to perform the mission; and

''(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

''(B) includes—

''(i) a baseline architecture;

''(ii) a target architecture; and

''(iii) a sequencing plan;

''(5) 'Fund' means the E-Government Fund established under section 3604;

''(6) 'interoperability' means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

''(7) 'integrated service delivery' means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

''(8) 'tribal government' means the governing body of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''§ 3602. Office of Electronic Government

''(a) There is established in the Office of Management and Budget an Office of Electronic Government.

''(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

''(c) The Administrator shall assist the Director in carrying out—

''(1) all functions under this chapter;

''(2) all of the functions assigned to the Director under title II of the E-Government Act of 2002; and

''(3) other electronic government initiatives, consistent with other statutes.

''(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

''(1) chapter 35;

''(2) division E of the Clinger-Cohen Act of 1996 (division E of Public Law 104–106; 40 U.S.C. 1401 et seq.);

''(3) section 552a of title 5 (commonly referred to as the Privacy Act);

''(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note);

''(5) the Government Information Security Reform Act; and

''(6) the Computer Security Act of 1987 (40 U.S.C. 759 note).

''(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

''(1) capital planning and investment control for information technology;

''(2) the development of enterprise architectures;

''(3) information security;

''(4) privacy;

''(5) access to, dissemination of, and preservation of Government information;

''(6) accessibility of information technology for persons with disabilities; and

''(7) other areas of electronic Government.

''(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

''(1) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

''(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

''(3) Provide overall leadership and direction to the executive branch on electronic Government by working with authorized officials to establish information resources management policies and requirements, and by reviewing performance of each agency in acquiring, using, and managing information resources.

''(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

''(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the E-Government Fund established under section 3604.

''(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

''(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

''(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), to be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, as follows:

''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

''(B) Consistent with the process under section 207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

''(C) Standards and guidelines for Federal Government computer system efficiency and security.

''(9) Sponsor ongoing dialogue that—

''(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

''(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

''(C) may include—

''(i) development of innovative models—

''(I) for electronic Government management and Government information technology contracts; and

''(II) that may be developed through focused discussions or using separately sponsored research;

''(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

''(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

''(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

''(10) Sponsor activities to engage the general public in the development and implementation of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities which engage multiple agencies providing similar or related information and services.

''(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 204 of the E-Government Act of 2002.

''(12) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

''(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

''(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

''(B) ensuring compliance with those standards through the budget review process and other means.

''(14) Oversee the development of enterprise architectures within and across agencies.

''(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

''(16) Administer the Office of Electronic Government established under section 3602.

''(17) Assist the Director in preparing the E-Government report established under section 3605.

''(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

''§ 3603. Chief Information Officers Council

''(a) There is established in the executive branch a Chief Information Officers Council.

''(b) The members of the Council shall be as follows:

''(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

''(2) The Administrator of the Office of Electronic Government.

''(3) The Administrator of the Office of Information and Regulatory Affairs.

''(4) The chief information officer of each agency described under section 901(b) of title 31.

''(5) The chief information officer of the Central Intelligence Agency.

''(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

''(7) Any other officer or employee of the United States designated by the chairperson.

''(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

''(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

''(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

''(3) The Administrator of General Services shall provide administrative and other support for the Council.

''(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

''(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

''(f) The Council shall perform functions that include the following:

''(1) Develop recommendations for the Director on Government information resources management policies and requirements.

''(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

''(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

''(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title II of the E-Government Act of 2002.

''(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

''(B) Consistent with the process under section 207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

''(C) Standards and guidelines for Federal Government computer system efficiency and security.

''(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

''(7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

''§ 3604. E-Government Fund

''(a)(1) There is established in the Treasury of the United States the E-Government Fund.

''(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

''(3) Projects under this subsection may include efforts to—

''(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

''(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

''(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

''(b)(1) The Administrator shall—

''(A) establish procedures for accepting and reviewing proposals for funding;

''(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

''(C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.

''(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

''(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agency-wide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

''(B) Projects shall adhere to fundamental capital planning and investment control processes.

''(C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would be coordinated with support from the Fund, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

''(D) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

''(E) Agencies shall assess the results of funded projects.

''(c) In determining which proposals to recommend for funding, the Administrator—

''(1) shall consider criteria that include whether a proposal—

''(A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;

''(B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);

''(C) ensures proper security and protects privacy;

''(D) is interagency in scope, including projects implemented by a primary or single agency that—

''(i) could confer benefits on multiple agencies; and

''(ii) have the support of other agencies; and

''(E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

''(2) may also rank proposals based on criteria that include whether a proposal—

''(A) has Governmentwide application or implications;

''(B) has demonstrated support by the public to be served;

''(C) integrates Federal with State, local, or tribal approaches to service delivery;

''(D) identifies resource commitments from nongovernmental sectors;

''(E) identifies resource commitments from the agencies involved;

''(F) uses web-based technologies to achieve objectives;

''(G) identifies records management and records access strategies;

''(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

''(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

''(J) supports integrated service delivery;

''(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

''(L) is new or innovative and does not supplant existing funding streams within agencies.

''(d) The Fund may be used to fund the integrated Internet-based system under section 204 of the E-Government Act of 2002.

''(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

''(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3605.

''(2) The report under paragraph (1) shall describe—

''(A) all projects which the Director has approved for funding from the Fund; and

''(B) the results that have been achieved to date for these funded projects.

''(g)(1) There are authorized to be appropriated to the Fund—

''(A) $45,000,000 for fiscal year 2003;

''(B) $50,000,000 for fiscal year 2004;

''(C) $100,000,000 for fiscal year 2005;

''(D) $150,000,000 for fiscal year 2006; and

''(E) such sums as are necessary for fiscal year 2007.

''(2) Funds appropriated under this subsection shall remain available until expended.

''§ 3605. E-Government report

''(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''(b) The report under subsection (a) shall contain—

''(1) a summary of the information reported by agencies under section 202(f) of the E-Government Act of 2002;

''(2) the information required to be reported by section 3604(f); and

''(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

''36. Management and Promotion of Electronic Government Services .. 3601''.

SEC. 102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by inserting after section 112 the following:

''SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

''The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for the Federal

Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 112 the following:

''Sec. 113. Electronic Government and information technologies.''.

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

''(5) Chair the Chief Information Officers Council established under section 3603 of title 44.''.

(c) OFFICE OF ELECTRONIC GOVERNMENT.—

(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

''§ 507. Office of Electronic Government

''The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

''507. Office of Electronic Government.''.

TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this Act (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this Act by the Director, and the information technology standards promulgated under this Act by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 204.

(b) PERFORMANCE INTEGRATION.—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

(c) AVOIDING DIMINISHED ACCESS.—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

(d) ACCESSIBILITY TO PEOPLE WITH DISABILITIES.—All actions taken by Federal departments and agencies under this Act shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) SPONSORED ACTIVITIES.—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

(f) CHIEF INFORMATION OFFICERS.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated under this Act by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(g) E-GOVERNMENT STATUS REPORT.—

(1) IN GENERAL.—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) SUBMISSION.—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director requires;

(B) consistent with related reporting requirements; and

(C) which addresses any section in this title relevant to that agency.

(h) USE OF TECHNOLOGY.—Nothing in this Act supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

(i) NATIONAL SECURITY SYSTEMS.—

(1) INAPPLICABILITY.—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

(2) APPLICABILITY.—Sections 202, 203, 210, and 214 of this title do apply to national security systems to the extent practicable and consistent with law.

SEC. 203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) PURPOSE.—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

(b) ELECTRONIC SIGNATURES.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105–277; 112 Stat. 2681–749 through 2681–751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

(c) AUTHORITY FOR ELECTRONIC SIGNATURES.—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, or for other activities consistent with this section, $8,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 204. FEDERAL INTERNET PORTAL.

(a) IN GENERAL.—

(1) PUBLIC ACCESS.—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) CRITERIA.—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration $15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 205. FEDERAL COURTS.

(a) INDIVIDUAL COURT WEBSITES.—The Chief Justice of the United States, the chief judge of each circuit and district, and the chief bankruptcy judge of each district shall establish with respect to the Supreme Court or the respective court of appeals, district, or bankruptcy court of a district, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) MAINTENANCE OF DATA ONLINE.—

(1) UPDATE OF INFORMATION.—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) CLOSED CASES.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) ELECTRONIC FILINGS.—

(1) IN GENERAL.—Except as provided under paragraph (2), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) EXCEPTIONS.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(3) PRIVACY AND SECURITY CONCERNS.—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(d) DOCKETS WITH LINKS TO DOCUMENTS.—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking ''shall hereafter'' and inserting ''may, only to the extent necessary,''.

(f) TIME REQUIREMENTS.—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

(g) DEFERRAL.—

(1) IN GENERAL.—

(A) ELECTION.—

(i) NOTIFICATION.—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) CONTENTS.—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) EXCEPTION.—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) REPORT.—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 206. REGULATORY AGENCIES.

(a) PURPOSES.—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the Administrative Procedures Act).

(b) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code.

(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

(d) ELECTRONIC DOCKETING.—

(1) IN GENERAL.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) TIME LIMITATION.—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3605 of title 44 (as added by this Act).

SEC. 207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) DEFINITIONS.—In this section, the term—

(1) ''Committee'' means the Interagency Committee on Government Information established under subsection (c); and

(2) ''directory'' means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) MEMBERSHIP.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) FUNCTIONS.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) TERMINATION.—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) CATEGORIZING OF INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(ii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 180 days after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies; and

(iii) that are, as appropriate, consistent with the standards promulgated by the Secretary of Commerce under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Director shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act,

the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) FUNCTIONS OF THE ARCHIVIST.—Not later than 180 days after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) AVAILABILITY OF GOVERNMENT INFORMATION ON THE INTERNET.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each agency shall—

(A) consult with the Committee and solicit public comment;

(B) determine which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(C) develop priorities and schedules for making that Government information available and accessible;

(D) make such final determinations, priorities, and schedules available for public comment;

(E) post such final determinations, priorities, and schedules on the Internet; and

(F) submit such final determinations, priorities, and schedules to the Director, in the report established under section 202(g).

(2) UPDATE.—Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(g) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE REPOSITORY AND WEBSITE.—

(A) REPOSITORY AND WEBSITE.—The Director of the National Science Foundation, working with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development center; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) OVERSIGHT.—The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

(2) AGENCY FUNCTIONS.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) COMMITTEE FUNCTIONS.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) FUNCTIONS OF THE DIRECTOR.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3605 of title 44 (as added by this Act).

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation for the development, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) $2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

(h) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

(1) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(A) develop and establish a public domain directory of public Federal Government websites; and

(B) post the directory on the Internet with a link to the integrated Internet-based system established under section 204.

(2) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(A) direct the development of the directory through a collaborative effort, including input from—

(i) agency librarians;

(ii) information technology managers;

(iii) program managers;

(iv) records managers;

(v) Federal depository librarians; and

(vi) other interested parties; and

(B) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(3) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(A) update the directory as necessary, but not less than every 6 months; and

(B) solicit interested persons for improvements to the directory.

(i) STANDARDS FOR AGENCY WEBSITES.—Not later than 18 months after the effective date of this title, the Director shall promulgate guidance for agency websites that include—

(1) requirements that websites include direct links to—

(A) descriptions of the mission and statutory authority of the agency;

(B) the electronic reading rooms of the agency relating to the disclosure of information under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(C) information about the organizational structure of the agency; and

(D) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(2) minimum agency goals to assist public users to navigate agency websites, including—

(A) speed of retrieval of search results;

(B) the relevance of the results;

(C) tools to aggregate and disaggregate data; and

(D) security protocols to protect information.

SEC. 208. PRIVACY PROVISIONS.

(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) PRIVACY IMPACT ASSESSMENTS.—

(1) RESPONSIBILITIES OF AGENCIES.—

(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) before—

(i) developing or procuring information technology that collects, maintains, or disseminates information that includes any identifier permitting the physical or online contacting of a specific individual; or

(ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated using information technology; and

(II) includes any identifier permitting the physical or online contacting of a specific individual, if the information concerns 10 or more persons.

(B) AGENCY ACTIVITIES.—To the extent required under subparagraph (A), each agency shall—

(i) conduct a privacy impact assessment;

(ii) ensure the review of the privacy impact assessment by the Chief Information Officer,

or equivalent official, as determined by the head of the agency; and

(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

(C) SENSITIVE INFORMATION.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

(D) COPY TO DIRECTOR.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—

(A) IN GENERAL.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) GUIDANCE.—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of personally identifiable information in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

(I) what information is to be collected;

(II) why the information is being collected;

(III) the intended use of the agency of the information;

(IV) with whom the information will be shared;

(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the Privacy Act).

(3) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Director determines appropriate.

(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

(1) PRIVACY POLICIES ON WEBSITES.—

(A) GUIDELINES FOR NOTICES.—The Director shall develop guidance for privacy notices on agency websites used by the public.

(B) CONTENTS.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

(i) what information is to be collected;

(ii) why the information is being collected;

(iii) the intended use of the agency of the information;

(iv) with whom the information will be shared;

(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(vi) how the information will be secured; and

(vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the Privacy Act), and other laws relevant to the protection of the privacy of an individual.

(2) PRIVACY POLICIES IN MACHINE-READABLE FORMATS.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

SEC. 209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

(a) PURPOSE.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

(b) IN GENERAL.—In consultation with the Director, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(1) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(2) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(3) assess the training of Federal employees in information technology disciplines, as necessary, in order to ensure that the information resource management needs of the Federal Government are addressed.

(c) EMPLOYEE PARTICIPATION.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in occupational information technology training.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this section, $7,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 210. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) PURPOSES.—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) DEFINITION.—In this section, the term ''geographic information'' means information systems that involve locational data, such as maps or other geospatial information resources.

(c) IN GENERAL.—

(1) COMMON PROTOCOLS.—The Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Secretary of the Interior shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) INTERAGENCY GROUP.—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) DIRECTOR.—The Director shall oversee—

(1) the interagency initiative to develop common protocols;

(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) the adoption of common standards relating to the protocols.

(e) COMMON PROTOCOLS.—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

SEC. 211. SHARE-IN-SAVINGS PROGRAM IMPROVEMENTS.

Section 5311 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 110 Stat. 692; 40 U.S.C. 1491) is amended—

(1) in subsection (a)—

(A) by striking ''the heads of two executive agencies to carry out'' and inserting ''heads of executive agencies to carry out a total of 5 projects under'';

(B) by striking ''and'' at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(D) by adding at the end the following:

''(3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

''(A) to retain, until expended, out of the appropriation accounts of the executive agency in which savings computed under paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

''(i) the total amount of the savings; over

''(ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

''(B) to use the retained amount to acquire additional information technology.'';

(2) in subsection (b)—

(A) by inserting ''a project under'' after ''authorized to carry out''; and

(B) by striking ''carry out one project and''; and

(3) in subsection (c), by inserting before the period ''and the Administrator for the Office of Electronic Government''; and

(4) by inserting after subsection (c) the following:

''(d) REPORT.—

''(1) IN GENERAL.—After 5 pilot projects have been completed, but no later than 3 years after the effective date of this subsection, the Director shall submit a report on the results of the projects to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''(2) CONTENTS.—The report under paragraph (1) shall include—

''(A) a description of the reduced costs and other measurable benefits of the pilot projects;

''(B) a description of the ability of agencies to determine the baseline costs of a project against which savings would be measured; and

''(C) recommendations of the Director relating to whether Congress should provide general authority to the heads of executive agencies to use a share-in-savings contracting approach to the acquisition of information technology solutions for improving

mission-related or administrative processes of the Federal Government.''.

SEC. 212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) PURPOSES.—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) DEFINITIONS.—In this section, the term—

(1) ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) ''person'' means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) REPORT.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) CONTENTS.—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make recommendations that Congress or the executive branch can implement, through the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.—

(1) IN GENERAL.—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

(2) GOALS OF PILOT PROJECTS.—

(A) IN GENERAL.—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) GOALS.—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

(3) INPUT.—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) PRIVACY PROTECTIONS.—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

(2) personal privacy information under sections 552(b) (6) and (7)(C) and 552a of title 5, United States Code, and other relevant law; and

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law.

SEC. 213. COMMUNITY TECHNOLOGY CENTERS.

(a) PURPOSES.—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

(b) STUDY AND REPORT.—Not later than 2 years after the effective date of this title, the Secretary of Education, in consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, the Director of the National Science Foundation, and the Director of the Institute of Museum and Library Services, shall—

(1) conduct a study to evaluate the best practices of community technology centers that have received Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) CONTENTS.—The report under subsection (b) may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers that have received Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) COOPERATION.—All agencies that fund community technology centers shall provide to the Department of Education any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Department of Education shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) TYPES OF ASSISTANCE.—Assistance under this subsection may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) ONLINE TUTORIAL.—

(1) IN GENERAL.—The Secretary of Education, in consultation with the Director of the Institute of Museum and Library Services, the Director of the National Science Foundation, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) DISTRIBUTION.—The Secretary of Education shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.—In consultation with other agencies and organizations, the Department of Education shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

(1) $2,000,000 in fiscal year 2003;

(2) $2,000,000 in fiscal year 2004; and

(3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

(a) PURPOSE.—The purpose of this section is to improve how information technology is

used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

(b) IN GENERAL.—

(1) STUDY ON ENHANCEMENT OF CRISIS RESPONSE.—Not later than 90 days after the date of enactment of this Act, the Federal Emergency Management Agency shall enter into a contract to conduct a study on using information technology to enhance crisis preparedness, response, and consequence management of natural and manmade disasters.

(2) CONTENTS.—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

(3) REPORT.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Federal Emergency Management Agency shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(4) INTERAGENCY COOPERATION.—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Federal Emergency Management Agency in carrying out this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) PILOT PROJECTS.—Based on the results of the research conducted under subsection (b), the Federal Emergency Management Agency shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Federal Emergency Management Agency shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) STUDY AND REPORT.—

(1) STUDY.—Not later than 90 days after the date of enactment of this Act, the Director of the National Science Foundation shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director of the National Science Foundation shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

(b) CONTENTS.—The report under subsection (a) shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) RECOMMENDATIONS.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation $950,000 in fiscal year 2003 to carry out this section.

SEC. 216. NOTIFICATION OF OBSOLETE OR COUNTERPRODUCTIVE PROVISIONS.

If the Director of the Office of Management and Budget makes a determination that any provision of this Act (including any amendment made by this Act) is obsolete or counterproductive to the purposes of this Act, as a result of changes in technology or any other reason, the Director shall submit notification of that determination to—

(1) the Committee on Governmental Affairs of the Senate; and

(2) the Committee on Government Reform of the House of Representatives.

TITLE III—GOVERNMENT INFORMATION SECURITY

SEC. 301. INFORMATION SECURITY.

(a) ADDITION OF SHORT TITLE.—Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–266) is amended by inserting after the heading for the subtitle the following new section:

"SEC. 1060. SHORT TITLE.

''This subtitle may be cited as the 'Government Information Security Reform Act'.''.

(b) CONTINUATION OF AUTHORITY.—

(1) IN GENERAL.—Section 3536 of title 44, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3536.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title I or II, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles I and II for each of fiscal years 2003 through 2007.

SEC. 402. EFFECTIVE DATES.

(a) TITLES I AND II.—

(1) IN GENERAL.—Except as provided under paragraph (2), titles I and II and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) IMMEDIATE ENACTMENT.—Sections 207, 214, 215, and 216 shall take effect on the date of enactment of this Act.

(b) TITLES III AND IV.—Title III and this title shall take effect on the date of enactment of this Act.

NOTICES OF HEARINGS/MEETINGS

JOINT COMMITTEE ON PRINTING

Mr. DAYTON. Mr. President, I wish to announce that the Joint Committee on Printing will meet in SR–301, Russell Senate Office Building, on Wednesday, July 10, 2002, at 11:00 a.m. The Committee will meet to hold a hearing to receive testimony from The Honorable Mitchell E. Daniels, Jr., Director, Office of Management and Budget; The Honorable Michael F. DiMario, Public Printer, United States Government Printing Office; Ms. Julia F. Wallace, Regional Depository Librarian, representing the American Library Association, the American Association of Law Libraries, the Association of Research Libraries, and the Medical Library Association; Mr. Benjamin Y. Cooper, Executive Vice President for Public Affairs, Printing Industries of America; and Mr. William J. Boarman, President, Printing, Publishing and Media Workers Sector, Communications Workers of America, on Federal Government printing and public access to government documents.

Individuals and organizations interested in submitting a statement for the hearing record are requested to call Mr. Matthew McGowan, Staff Director of the Joint Committee on Printing, on 224–3244. For further information regarding the hearing, please contact Mr. McGowan.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 27, 2002, at 10 a.m. to conduct an oversight hearing on ''The Preliminary Findings of the Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century.''

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, June 27, 2002, at 9:30 a.m. to conduct a business meeting to consider the following: S. 351, the Mercury Reduction and Disposal Act of 2001; S. 556, the Clean Power Act of 2002; S. 2664, the First Responder Terrorism Preparedness Act of 2002; H.R. 3322, the Bear River Migratory Bird Refuge Visitor Center Act; H.R. 3958, the Bear River Migratory Bird Refuge Settlement Act of 2002; and Subpoena for new source review documentation to the Environmental Protection Agency.

The business meeting will be held in SD–406.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, June 27, 2002 at 10 a.m. to consider the Nomination of Charlotte A. Lane, of West Virginia, to be a member of the United States International Trade Commission.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 27, 2002 at 2:30 p.m. to hold a hearing relating to Human Rights in Central Asia.

Agenda

Witnesses

Panel 1: The Honorable Lorne Craner, Assistant Secretary for Democracy, Human Rights, and Labor, Department of State, Washington, DC; the Honorable J.D. Crouch, Assistant Secretary for International Security Policy, Department of Defense, Washington, DC; and Mr. Lynn Pascoe, Deputy Assistant Secretary for Central Asia, Department of State, Washington, DC.

Panel 2: Ms. Martha Brill Olcott, Senior Associate, Carnegie Endowment for International Peace, Washington, DC; and the Honorable William Courtney, Former U.S. Ambassador to Kazakhstan and Georgia, Former Senior Advisor to the National Security Council, Senior Vice President, National Security Programs, DynCorp, Washington, DC.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Government Affairs be authorized to meet on Thursday, June 27, 2002 at 1 p.m. for the purpose of holding a hearing to ''Review the Relationship Between a Department of Homeland Security and the Intelligence Community.''

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on ''Title IX: Building on 30 Years of Progress'' during the session of the Senate on Thursday, June 27, 2002, at 2:30 p.m. in SD–430.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 27, 2002, at 10 a.m., in SD–226.

Agenda

Nominations

Lavenski R. Smith to be a U.S. Circuit Court Judge for the Eighth Circuit, and John M. Rogers to be a U.S. Circuit Court Judge for the Sixth Circuit.

Bills

S. 2134, Terrorism Victim's Access to Compensation Act of 2002 [Harkin/Allen];

H.R. 3375, Embassy Employee Compensation Act [Blunt];

S. 486, Innocent Protection Act [Leahy/Smith];

S. 2633, Reducing Americans' Vulnerability to Ecstasy Act [Biden/Grassley];

S. 862, State Criminal Alien Assistance Program Reauthorization Act of 2001 [Feinstein/Kyl/Durbin/Cantwell];

S. 1339, Persian Gulf POW/MIA Accountability Act of 2001 [Campbell/Kohl/Thurmond/Feinstein/Sessions/Schumer/McConnell/Durbin/Cantwell/Leahy];

S. 2395, Anticounterfeiting Amendments of 2002 [Biden]; and

S. 2513. DNA Sexual Assault Justice Act of 2002 [Biden/Cantwell//Clinton/Carper].

Resolutions

S. Res. 281, A resolution designating the week beginning August 25, 2002, as ''National Fraud Against Senior Citizens Awareness Week''. [Levin/Snowe];

S. Res. 284, A resolution expressing support for ''National Night Out'' and requesting that the President make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration. [Biden].

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Judicial Nominations'' on Thursday, June 27, 2002 at 2 p.m. in Dirksen Room 226.

Agenda

Dennis Shedd, 4th Circuit; Terrence McVerry, Western District of Pennsylvania; and Arthur Schuab, Western District of Pennsylvania.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE AND THE APPROPRIATIONS SUBCOMMITTEE ON TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on the Surface Transportation and Merchant Marine and the Appropriations Subcommittee on Transportation be authorized to meet on Thursday, June 27 2002, at 9:30 a.m. on Cross Border Trucking Issues.

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

PRIVILEGE OF THE FLOOR

Ms. LANDRIEU. Mr. President, I ask unanimous consent that privilege of the floor be granted to Cathy Haverstock, a legislative fellow in my office, for the remainder of the debate on this bill.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations reported earlier today by the Armed Services Committee: Calendar Nos. 894 through 902 and all the nominations placed on the Secretary's desk.

I ask further that the nominations be confirmed, the motions to reconsider be laid on the table, any statements thereon be printed at the appropriate place in the RECORD as though read; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session, with the preceding all occurring without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. Ralph E. Eberhart

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Robert Damon Bishop, Jr.
Brigadier General Robert W. Chedister
Brigadier General Trudy H. Clark
Brigadier General Richard L. Comer
Brigadier General Craig R. Cooning
Brigadier General Scott S. Custer
Brigadier General Felix Dupre
Brigadier General Edward R. Ellis
Brigadier General Leonard D. Fox
Brigadier General Terry L. Gabreski
Brigadier General Michael C. Gould
Brigadier General Jonathan S. Gration
Brigadier General William W. Hodges
Brigadier General Donald J. Hoffman
Brigadier General John L. Hudson
Brigadier General Claude R. Kehler
Brigadier General Christopher A. Kelly
Brigadier General Paul J. Lebras
Brigadier General John W. Rosa, Jr.
Brigadier General Ronald F. Sams
Brigadier General Kevin J. Sullivan
Brigadier General Mark A. Welsh, III
Brigadier General Stephen G. Wood

ARMY

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. John M. Urias

The following named officers for appointment in the Reserve of the Army to the

grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. George W. S. Read

To be brigadier general

Col. Larry Knightner

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Edwin E. Spain, III

To be brigadier general

Col. Dennis E. Lutz

The following named officer for appointment as Assistant Surgeon General/Chief of the Dental Corps, United States Army and for appointment to the grade indicated under title 10, U.S.C., section 3039:

To be major general

Brig. Gen. Joseph G. Webb, Jr.

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Wayne M. Erck
Brig. Gen. Charles E. McCartney, Jr.
Brig. Gen. Bruce E. Robinson

To be brigadier general

Col. David L. Evans
Col. William C. Kirkland
Col. James B. Mallory, III
Co. John P. McLaren, Jr.

NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Phillip M. Balisle

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Robert F. Willard

NOMINATIONS PLACED ON THE SECRETARY'S DESK

AIR FORCE

PN1860 Air Force nomination of Sharon G. Harris, which was received by the Senate and appeared in the Congressional Record of June 7, 2002.

PN1861 Air Force nominations (3) beginning *Nicola A. Choate, and ending *Nicholas G. Viyouh, which nominations were received by the Senate and appeared in the Congressional Record of June 7, 2002.

PN1862 Air Force nominations (2) beginning Kathleen N. Echiverri, and ending Jeffrey E. Haymond, which nominations were received by the Senate and appeared in the Congressional Record of June 7, 2002.

ARMY

PN1809 Army nominations (14) beginning *Timothy C. Beaulieu, and ending William E. Wheeler, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2002.

PN1810 Army nominations (14) beginning Duane A. Belote, and ending *Neal E. Woollen, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2002.

PN1811 Army nominations (35) beginning John C. Aupke, and ending Steven R. Young, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2002.

PN1812 Army nominations (78) beginning Ann M. Altman, and ending *Angelia L. Wherry, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2002.

PN1813 Army nominations (123) beginning Ryo S. Chun, and ending John K. Zaugg, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2002.

PN1830 Army nomination of Michael J. Meese, which was received by the Senate and appeared in the Congressional Record of June 5, 2002.

PN1831 Army nominations (4) beginning Steven A. Beyer, and ending James F. Roth, which nominations were received by the Senate and appeared in the Congressional Record of June 5, 2002.

PN1832 Army nomination of Jay A. Jupiter, which were received by the Senate and appeared in the Congressional Record of June 5, 2002.

PN1833 Army nomination of Andrew D. Magnet, which were received by the Senate and appeared in the Congressional Record of June 5, 2002.

PN1834 Army nominations (9) beginning Bernard Coleman, and ending Michael A. Stone, which nominations were received by the Senate and appeared in the Congressional Record of June 5, 2002.

PN1865 Army nomination of Robert A. Mason, which was received by the Senate and appeared in the Congressional Record of June 7, 2002.

PN1866 Army nominations (3) beginning Richard E. Humston, and ending Dwight D. Riggs, which nominations were received by the Senate and appeared in the Congressional Record of June 7, 2002.

PN1889 Army nomination of Nanette S. Patton, which was received by the Senate and appeared in the Congressional Record of June 7, 2002.

MARINE CORPS

PN1814 Marine Corps nominations (1278) beginning Derek M. Abbey, and ending Mark D. Zimmer, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2002.

NOMINATION OF GEN. R.E. EBERHART

Mr. ALLARD. Mr. President, I would like to take this opportunity to congratulate General Ralph E. Eberhart, United States Air Force, on his appointment to serve as the first Commander-in-Chief of Northern Command as well as the commander of NORAD. General Eberhart's qualifications for this very important position are impeccible, and I have absolutely no doubt that he will bring the same success to Northern Command as he did to US Space Command.

Before General Eberhart departs US Space Command, I want to express my most sincere appreciation to him for his steadfast advocacy of military space capabilities over the past two years. His visionary leadership and dedication as the Commander-in-Chief of US Space Command and, until recently, Air Force Space Command, has truly brought military space into a new era. When he took command of US Space Command in February 2000, our country had just completed Operation Allied Force in Kosovo. At that time we recognized the value that space-based capabilities bring to the flight. GPS-guided weapons were the preferred munition and satellite communications provided double the bandwidth available in Desert Storm. Since Operation Allied Force, General Eberhart was able to increase the effectiveness of these very same capabilities by pressing for the integration of space capabilities with air, maritime and land assets. US Space Command's contributions are the hallmarks of Operation Enduring Freedom.

When military historians look back at Operation Enduring Freedom, they will note the extreme effectiveness bombs delivered with pinpoint accuracy within minutes of being requested by soldiers on the ground. They will note persistent survellience and near-real time threat information beamed to cockpits. These capabilties would not be possible if it weren't for US Space Command. Space-based capabilities are an enabler of not just the Air Force's transformation, but also the Navy and Army.

General Eberhart's leadership of NORAD during Operation Noble Eagle is equally impressive. After September 11, NORAD went from having 14 aircraft on alert to more than 100. General Eberhart faced the challenges of supporting continous combat air patrols, including all the supporting logistics such as tankers and integrating NATO AWACS. The change in focus of NORAD since Sept 11 is not, unfortunately, temporary and points our nation's need for a Unified Command to address threats to the United States as well as operations in North America.

North Command is crucial to our national security. I am very proud to host this command in Colorado and sincerely look forward to continue working with General Eberhart.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MEASURE PLACED ON THE CALENDAR—H.R. 3937

Mr. REID. Mr. President, I understand that H.R. 3937 has been read for the first time and is now awaiting its second reading.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask then, Mr. President, that H.R. 3937 be read for a second time, but I object to any further proceedings.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (H.R. 3937) to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

The PRESIDING OFFICER. Objection having been heard, the bill will be placed on the calendar.

E-GOVERNMENT ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 439, S. 803.

The PRESIDING OFFICER. The clerk will report the title.

The legislative clerk read as follows:

A bill (S. 803) to enhance the management and promotion of the electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Omit the parts in black brackets and insert the parts printed in italic.]

S. 803

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 ''E-Government Act of 2001''.

[(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

[Sec. 1. Short title; table of contents.
[Sec. 2. Findings and purposes.
[TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES
[Sec. 101. Federal Chief Information Officer.
[Sec. 102. Office of Information Policy and Office of Information and Regulatory Affairs.
[Sec. 103. Management and promotion of electronic Government services.
[TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES
[Sec. 201. Federal agency responsibilities.
[Sec. 202. Compatibility of executive agency methods for use and acceptance of electronic signatures.
[Sec. 203. Online Federal telephone directory.
[Sec. 204. Online National Library.
[Sec. 205. Federal courts.
[Sec. 206. Regulatory agencies.
[Sec. 207. Integrated reporting feasibility study and pilot projects.
[Sec. 208. Online access to federally funded research and development.
[Sec. 209. Common protocols for geographic information systems.
[Sec. 210. Share-In-Savings Program improvements.
[Sec. 211. Enhancing crisis management through advanced information technology.
[Sec. 212. Federal Information Technology Training Center.
[Sec. 213. Community technology centers.
[Sec. 214. Disparities in access to the Internet.
[Sec. 215. Accessibility, usability, and preservation of Government information.
[Sec. 216. Public domain directory of Federal Government websites.
[Sec. 217. Standards for agency websites.
[Sec. 218. Privacy protections.
[Sec. 219. Accessibility to people with disabilities.
[Sec. 220. Notification of obsolete or counterproductive provisions.
[TITLE III—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATE
[Sec. 301. Authorization of appropriations.
[Sec. 302. Effective date.

[SEC. 2. FINDINGS AND PURPOSES.

[(a) FINDINGS.—Congress finds the following:

[(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

[(2) The Federal Government has had uneven success in applying advances in information technology to enhance Governmental functions and services, achieve more efficient performance, and increase access to Government information and citizen participation in Government.

[(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function.

[(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of funding mechanisms to support such interagency cooperation.

[(5) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires new leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

[(b) PURPOSES.—The purposes of this Act are the following:

[(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget.

[(2) To establish measures that require using Internet-based information technology to enhance citizen access to Government information and services, improve Government efficiency and reduce Government operating costs, and increase opportunities for citizen participation in Government.

[(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related function.

[(4) To promote interagency collaboration in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

[TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

[SEC. 101. FEDERAL CHIEF INFORMATION OFFICER.

[(a) ESTABLISHMENT.—Section 502 of title 31, United States Code, is amended—

[(1) by redesignating subsections (d), (e), and (f), as subsections (e), (f), and (g), respectively; and

[(2) by inserting after subsection (c) the following:

[''(d) The Office has a Federal Chief Information Officer appointed by the President, by and with the advice and consent of the Senate. The Federal Chief Information Officer shall provide direction, coordination, and oversight of the development, application, and management of information resources by the Federal Government.''.

[(b) COMPENSATION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

[''Federal Chief Information Officer.''.

[(c) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b)(2)(D) of title 31, United States Code, is amended by striking ''and statistical policy'' and inserting ''collection review''.

[(d) OFFICE OF INFORMATION POLICY.—

[(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

[''§ 507. Office of Information Policy

[''The Office of Information Policy, established under section 3503 of title 44, is an office in the Office of Management and Budget.''.

[(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

[''507. Office of Information Policy.''.

[(e) PRIVACY ACT FUNCTIONS.—

[Section 552a(v) of title 5, United States Code (commonly referred to as the Privacy Act) is amended to read as follows:

[''(v) OFFICE OF MANAGEMENT AND BUDGET RESPONSIBILITIES.—The Director of the Office of Management and Budget shall—

[''(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section;

[''(2) provide continuing assistance to and oversight of the implementation of this section by agencies; and

[''(3) delegate all of the functions to be performed by the Director under this section to the Federal Chief Information Officer.''.

[(f) ACQUISITIONS OF INFORMATION TECHNOLOGY.—

[(1) RESPONSIBILITIES AND FUNCTIONS.—Section 5111 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1411) is amended—

[(A) by inserting ''(a) IN GENERAL.—'' before ''In fulfilling''; and

[(B) by adding at the end the following:

[''(b) DELEGATION.—The Director shall delegate all of the responsibilities and functions to be performed by the Director under this title to the Federal Chief Information Officer.''.

[(2) INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS.—Section 5301(a)(1) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1471(a)(1)) is amended by striking ''Administrator for the Office of Information and Regulatory Affairs'' and inserting ''Federal Chief Information Officer''.

[(g) FEDERAL COMPUTER SYSTEMS STANDARDS AND GUIDELINES.—

[(1) PROMULGATION.—Section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) is amended—

[(A) by striking ''Secretary of Commerce'' each place it appears and inserting ''Federal Chief Information Officer'' in each such place; and

[(B) by striking ''Secretary'' each place it appears and inserting ''Federal Chief Information Officer'' in each such place.

[(2) SUBMISSION.—Section 20(a)(4) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)(4)) is amended by striking ''Secretary of Commerce'' and inserting ''Federal Chief Information Officer''.

[(h) INFORMATION TECHNOLOGY FUND.—Section 110(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757(a)) is amended by adding at the end the following:

[''(3) The Administrator's decisions with regard to obligations of and expenditures from the Fund shall be made after consultation with the Federal Chief Information Officer, with respect to those programs that—

[''(A) promote the use of information technology to agencies; or

[''(B) are intended to facilitate the efficient management, coordination, operation, or use of those information technologies.''.

[(i) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

[(1) IN GENERAL.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by inserting after section 112 the following:

["SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

['The Administrator of General Services shall consult with the Federal Chief Information Officer on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.''.

[(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 112 the following:

['Sec. 113. Electronic Government and information technologies.''.

[(j) GOVERNMENT PAPERWORK ELIMINATION.—The Government Paperwork Elimination Act (44 U.S.C. 3504 note) is amended—

[(1) by redesignating sections 1709 and 1710 as sections 1710 and 1711, respectively; and

[(2) by inserting after section 1708 the following:

["SEC. 1709. DELEGATION OF FUNCTIONS TO FEDERAL CHIEF INFORMATION OFFICER.

['The Director of the Office of Management and Budget shall delegate all of the functions to be performed by the Director under this title to the Federal Chief Information Officer.''.

[SEC. 102. OFFICE OF INFORMATION POLICY AND OFFICE OF INFORMATION AND REGULATORY AFFAIRS.

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—Section 3503 of title 44, United States Code, is amended to read as follows:

["§ 3503. Office of Information Policy and Office of Information and Regulatory Affairs

['(a)(1) There is established in the Office of Management and Budget an office to be known as the Office of Information Policy.

['(2) The Office shall be administered by the Federal Chief Information Officer established under section 502(d) of title 31. The Director shall delegate to the Federal Chief Information Officer the authority to administer all functions under this chapter, except those delegated to the Administrator of the Office of Information and Regulatory Affairs under subsection (b)(2). Any such delegation shall not relieve the Director of responsibility for the administration of such function.

['(b)(1) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

['(2) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter explicitly relating to information collection review. Any such delegation shall not relieve the Director of responsibility for the administration of such functions.''.

[(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3503 and inserting the following:

['3503. Office of Information Policy and Office of Information and Regulatory Affairs.''.

[(b) PROMOTION OF INFORMATION TECHNOLOGY.—Section 3504(h)(5) of title 44, United States Code, is amended by inserting ''direct the Federal Chief Information Officer and the Administrator of the Office of Information and Regulatory Affairs, acting jointly, to'' after ''(5)''.

[(c) COORDINATION OF INFORMATION COLLECTION REVIEWS.—

[(1) INFORMATION COLLECTION REVIEW.—Section 3502 of title 44, United States Code is amended—

[(A) by redesignating paragraphs (6) through (14) as paragraphs (7) through (15), respectively; and

[(B) by inserting after paragraph (5) the following:

['(6) the term 'information collection review' means those functions described under section 3504(c) and related functions;''.

[(2) COORDINATION.—Section 3504 of title 44, United States Code, is amended—

[(A) by redesignating paragraph (2) as paragraph (3); and

[(B) by inserting after paragraph (1) the following:

['(2) The Director shall ensure that the Office of Information Policy and the Office of Information and Regulatory Affairs coordinate their efforts in applying the principles developed and implemented under this section to information collection reviews.''.

[(d) REFERENCES.—Reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Office of Information and Regulatory Affairs or the Administrator of the Office of Information and Regulatory Affairs, respectively, shall be deemed a reference to—

[(1) the Office of Information Policy or the Federal Chief Information Officer, respectively, with respect to functions described under section 3503(a) of title 44, United States Code (as amended by section 103 of this Act); and

[(2) the Office of Information and Regulatory Affairs or the Administrator of the Office of Information and Regulatory Affairs, respectively, with respect to functions described under section 3503(b) of such title (as amended by section 103 of this Act).

[(e) ADDITIONAL CONFORMING AMENDMENTS.—

[(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of Congress, the Director of the Office of Management and Budget shall prepare and submit to Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this Act.

[(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall submit the recommended legislation referred to under paragraph (1).

[SEC. 103. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

[(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

["CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

['Sec.

['3601. Definitions.

['3602. Federal Chief Information Officer functions.

['3603. Chief Information Officers Council.

['3604. E-Government Fund.

["§ 3601. Definitions

['In this chapter, the definitions under section 3502 shall apply, and the term—

['(1) 'Council' means the Chief Information Officers Council established under section 3603;

['(2) 'Cross-Sector Forum' means the Cross-Sector Forum on Information Resources Management established under section 3602(a)(10);

['(3) 'Fund' means the E-Government Fund established under section 3604;

['(4) 'interoperability' means the ability of different software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner; and

['(5) 'integrated service delivery' means the provision of Internet-based Federal Government information or services integrated according to function rather than separated according to the boundaries of agency jurisdiction.

["§ 3602. Federal Chief Information Officer functions

['(a) Subject to the direction and approval of the Director of the Office of Management Budget, and subject to requirements of this chapter, the Federal Chief Information Officer shall perform information resources management functions as follows:

['(1) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to information resources management.

['(2) Perform the following functions with respect to information resources management:

['(A) Under section 5112 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1412), review agency budget requests related to information technology capital planning and investment.

['(B) Under section 5113 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1413), evaluate the investments referred to under subparagraph (A) with respect to performance and results.

['(C) Review legislative proposals related to information technology capital planning and investment.

['(D) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

['(E) Recommend to the Director changes relating to Governmentwide strategies and priorities for information resources management.

['(3) Provide overall leadership and direction to the executive branch on information policy by establishing information resources management policies and requirements, and by reviewing each agency's performance in acquiring, using, and managing information resources.

['(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

['(5) Administer the distribution of funds from the E-Government Fund established under section 3604.

['(6) Consult with the Administrator of General Services regarding the use of the Information Technology Fund established under section 110 of the Federal Property and Administrative Coordinate Services Act of 1949 (40 U.S.C. 757), and coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by agencies.

['(7) Chair the Chief Information Officers Council established under section 3603.

['(8) Establish and promulgate information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441)

based on the recommendations of the National Institute of Standards and Technology, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, as follows:

[''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

[''(B) Standards and guidelines for categorizing and electronically labeling Federal Government electronic information, to enhance electronic search capabilities.

[''(C) Standards and guidelines for Federal Government computer system efficiency and security.

[''(9) Establish a regular forum for consulting and communicating with leaders in information resources management in the legislative and judicial branches to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources.

[''(10) Establish a regular forum for consulting and communicating with leaders in information resources management in State, local, and tribal governments (including the National Association of State Information Resources Executives) to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources.

[''(11) Establish a regular forum for consulting and communicating with program managers and leaders in information resources management in the regulatory executive branch agencies to encourage collaboration and enhance understanding of best practices and innovative approaches related to the acquisition, use, and management of information resources in regulatory applications.

[''(12) Establish a Cross-Sector Forum on Information Resources Management, subject to the Federal Advisory Committee Act (5 U.S.C. App.), as a periodic colloquium with representatives from Federal agencies (including Federal employees who are not supervisors or management officials as such terms are defined under section 7103(a) (10) and (11), respectively) and the private, nonprofit, and academic sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources. The Cross-Sector Forum shall be used for the following:

[''(A) To develop innovative models for Government information resources management and for Government information technology contracts. These models may be developed through focused Cross-Sector Forum discussions or using separately sponsored research.

[''(B) To identify opportunities for performance-based shared-savings contracts as a means of increasing the quantity and quality of Government information and services available through the Internet.

[''(C) To identify opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions.

[''(D) To identify mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies.

[''(E) To identify opportunities for public-private collaboration in addressing the disparities in access to the Internet and information technology.

[''(F) To develop guidance to advise agencies and private companies on any relevant legal and ethical restrictions.

[''(13) Direct the establishment, maintenance, and promotion of an integrated Internet-based system of delivering Government information and services to the public. To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

[''(A) The provision of Internet-based Government information and services integrated according to function rather than separated according to the boundaries of agency jurisdiction.

[''(B) An ongoing effort to ensure that all Internet-based Government services relevant to a given citizen activity are available from a single point.

[''(C) Standardized methods for navigating Internet-based Government information and services.

[''(D) The consolidation of Federal Government information and services with Internet-based information and services provided by State, local, and tribal governments.

[''(14) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

[''(15) Assist Federal agencies, the United States Access Board, the General Services Administration, and the Attorney General in—

[''(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. section 794d); and

[''(B) ensuring compliance with those standards through the budget review process and other means.

[''(16) Administer the Office of Information Policy established under section 3503.

[''(b) The Director of the Office of Management and Budget shall consult with the Federal Chief Information Officer on each agency budget request and legislative proposal described under subsection (a)(2).

[''(c) The Federal Chief Information Officer shall appoint the employees of the Office. The Director of the Office of Management and Budget shall ensure that the Office of Information Policy has adequate employees and resources to properly fulfill all functions delegated to the Office and the Federal Chief Information Officer.

[''(d) There are authorized to be appropriated $15,000,000 for the establishment, maintenance, and promotion of the integrated Internet-based system established under subsection (a)(13) for fiscal year 2002, and such sums as are necessary for fiscal years 2003 through 2006.

["§ 3603. Chief Information Officers Council

[''(a) There is established in the executive branch a Chief Information Officers Council.

[''(b) The members of the Council shall be as follows:

[''(1) The chief information officer of each agency described under section 901(b) of title 31.

[''(2) The chief information officer of the Central Intelligence Agency.

[''(3) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for these departments under section 3506(a)(2)(B).

[''(4) Any other officers or employees of the United States designated by the Federal Chief Information Officer.

[''(c)(1) The Federal Chief Information Officer shall be the Chairman of the Council.

[''(2)(A) The Deputy Chairman of the Council shall be selected by the Council from among its members.

[''(B) The Deputy Chairman shall serve a 1-year term, and may serve multiple terms.

[''(3) The Administrator of General Services shall provide administrative and other support for the Council, including resources provided through the Information Technology Fund established under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757).

[''(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources. The Council shall perform the following functions:

[''(1) Develop recommendations for the Federal Chief Information Officer on Government information resources management policies and requirements.

[''(2) Assist the Federal Chief Information Officer in developing and maintaining the Governmentwide strategic information resources management plan required under section 3506.

[''(3) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

[''(4) Assist the Federal Chief Information Officer in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

[''(5) Provide recommendations to the Federal Chief Information Officer regarding the distribution of funds from the E-Government Fund established under section 3604.

[''(6) Coordinate the development and use of common performance measures for agency information resources management under section 5123 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1423).

[''(7) Work as appropriate with the National Institute of Standards and Technology to develop recommendations for the Federal Chief Information Officer on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

[''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

[''(B) Standards and guidelines for categorizing and electronically labeling Government electronic information, to enhance electronic search capabilities.

[''(C) Standards and guidelines for Federal Government computer system efficiency and security.

[''(8) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

["§ 3604. E-Government Fund

[''(a) There is established in the Treasury of the United States an E-Government Fund, which shall be available without fiscal year limitation.

[''(b) The Fund shall be used to fund interagency information technology projects, and other innovative uses of information technology. The Fund shall be operated as follows:

[''(1) Any member of the Council, including the Federal Chief Information Officer, may propose a project to be funded from the Fund.

[''(2) On a regular basis, an appropriate committee within the Council shall review candidate projects for funding eligibility, and make recommendations to the Federal Chief Information Officer on which projects should be funded from the Fund. The review committee shall consider the following:

[''(A) The relevance of this project in supporting the missions of the affected agencies and other statutory provisions.

[''(B) The usefulness of interagency collaboration on this project in supporting integrated service delivery.

[''(C) The usefulness of this project in illustrating a particular use of information technology that could have broader applicability within the Government.

[''(D) The extent to which privacy and information security will be provided in the implementation of the project.

[''(E) The willingness of the agencies affected by this project to provide matching funds.

[''(F) The availability of funds from other sources for this project.

[''(3) After considering the recommendations of the Council, the Federal Chief Information Officer shall have final authority to determine which of the candidate projects shall be funded from the Fund.

[''(c) The Fund may be used to fund the integrated Internet-based system under section 3602(a)(13).

[''(d) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Federal Chief Information Officer has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

[''(e) The Federal Chief Information Officer shall submit an annual report to the President and Congress on the operation of the Fund. The report shall describe—

[''(1) all projects which the Federal Chief Information Officer has approved for funding from the Fund;

[''(2) the results that have been achieved to date for these funded projects; and

[''(3) any recommendations for changes to the amount of capital appropriated annually for the Fund, with a description of the basis for any such recommended change.

[''(f) There are authorized to be appropriated to the Fund $200,000,000 in each of the fiscal years 2002 through 2004, and such sums as may be necessary for fiscal years 2005 and 2006.''.

[(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

[''36. Management and Promotion of Electronic Government Services. 3601''.

[TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

[SEC. 201. FEDERAL AGENCY RESPONSIBILITIES.

[(a) IN GENERAL.—The head of each agency shall be responsible for—

[(1) complying with the requirements of this Act (including the amendments made by this Act) and the related information resource management policies and information technology standards established by the Federal Chief Information Officer;

[(2) ensuring that the policies and standards established by the Federal Chief Information Officer and the Chief Information Officers Council are communicated promptly and effectively to all relevant managers with information resource management responsibilities within their agency; and

[(3) supporting the efforts of the Federal Chief Information Officer to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under chapter 36 of title 44, United States Code (as added by section 103 of this Act).

[(b) CHIEF INFORMATION OFFICERS.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by section 103 of this Act), shall be responsible for—

[(1) participating in the functions of the Chief Information Officers Council; and

[(2) monitoring the implementation, within their respective agencies, of information technology standards established by the Federal Chief Information Officer, including common standards for interconnectivity and interoperability, categorization and labeling of Federal Government electronic information, and computer system efficiency and security.

[(c) E-GOVERNMENT STATUS REPORT.—

[(1) IN GENERAL.—Each agency shall compile and submit to the Federal Chief Information Officer an E-Government Status Report on the current status of agency information and agency services available online.

[(2) CONTENT.—Each report under this subsection shall contain—

[(A) a list and brief description of the agency services available online;

[(B) a list, by number and title, of the 25 most frequently requested agency forms available online, annotated to indicate which forms can be submitted to the agency electronically; and

[(C) a summary of the type, volume, general topical areas, and currency of agency information available online.

[(3) SUBMISSION.—Not later than March 1, of each year, each agency shall submit a report under this subsection to the Federal Chief Information Officer.

[(4) CONSOLIDATION OF REPORTS.—Section 3516(a)(2) of title 31, United States Code, is amended—

[(A) by redesignating subparagraph (C) as subparagraph (D); and

[(B) by inserting after subparagraph (B) the following:

[''(C) Any E-Government Status Report under section 201(c) of the E-Government Act of 2001.''.

[SEC. 202. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

[(a) ELECTRONIC SIGNATURES.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105–277; 112 Stat. 2681–749 through 2681–751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant procedures and standards promulgated by the Director of the Office of Management and Budget.

[(b) BRIDGE AUTHORITY FOR DIGITAL SIGNATURES.—The Administrator of the General Services Administration shall support the Director of the Office of Management and Budget by establishing the Federal bridge certification authority which shall provide a central authority to allow efficient interoperability among Executive agencies when certifying digital signatures.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, $7,000,000 in fiscal year 2002, and such sums as may be necessary for each fiscal year thereafter.

[SEC. 203. ONLINE FEDERAL TELEPHONE DIRECTORY.

[(a) IN GENERAL.—

[(1) DEVELOPMENT.—The Administrator of the General Services Administration, in coordination with the Chief Information Officers Council, shall develop and promulgate an online Federal telephone directory.

[(2) ORGANIZATION.—Information in the online Federal telephone directory shall be organized and retrievable both by function and by agency name.

[(3) TELEPHONE DIRECTORIES.—Information compiled for publication in the online Federal telephone directory shall be provided to local telephone book publishers, to encourage publication and dissemination of functionally arranged directories in local Federal blue pages.

[(b) EXECUTIVE AGENCIES.—

[(1) IN GENERAL.—Each Executive agency (as defined under section 105 of title 5, United States Code) shall publish an online agency directory, accessible by electronic link from the online Federal telephone directory.

[(2) CONTENT.—Each agency directory—

[(A) shall include telephone numbers and electronic mail addresses for principal departments and principal employees, subject to security restrictions and agency judgment; and

[(B) shall be electronically searchable.

[SEC. 204. ONLINE NATIONAL LIBRARY.

[(a) IN GENERAL.—The Director of the National Science Foundation, the Secretary of the Smithsonian Institution, the Director of the National Park Service, the Director of the Institute of Museum and Library Services, and the Librarian of Congress shall establish an Online National Library after consultation with—

[(1) the private sector;

[(2) public, research, and academic libraries;

[(3) historical societies;

[(4) archival institutions; and

[(5) other cultural and academic organizations.

[(b) FUNCTIONS.—The Online National Library—

[(1) shall provide public access to an expanding database of educational resource materials, including historical documents, photographs, audio recordings, films, and other media as appropriate, that are significant for education and research in United States history and culture;

[(2) shall be functionally integrated, so that a user may have access to the resources of the Library without regard to the boundaries of the contributing institutions; and

[(3) shall include educational resource materials across a broad spectrum of United States history and culture, including the fields of mathematics, science, technology, liberal arts, fine arts, and humanities.

[(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of developing, expanding, and maintaining this Online National Library, there are authorized to be appropriated—

[(1) to the National Science Foundation $5,000,000 in fiscal year 2002, and such sums as may be necessary for each fiscal year thereafter; and

[(2) to the Library of Congress $5,000,000 in fiscal year 2002, and such sums as may be necessary for each fiscal year thereafter.

[SEC. 205. FEDERAL COURTS.

[(a) INDIVIDUAL COURT WEBSITES.—The Chief Justice of the United States and the chief judge of each circuit and district shall establish with respect to the Supreme Court or the respective court of appeal or district (including the bankruptcy court of that district) a website, that contains the following information or links to websites with the following information:

[(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

[(2) Local rules and standing or general orders of the court.

[(3) Individual rules, if in existence, of each justice or judge in that court.

[(4) Access to docket information for each case.

[(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

[(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c)(2).

[(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

[(b) MAINTENANCE OF DATA ONLINE.—

[(1) UPDATE OF INFORMATION.—The information and rules on each website shall be updated regularly and kept reasonably current.

[(2) CLOSED CASES.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

[(c) ELECTRONIC FILINGS.—

[(1) IN GENERAL.—Each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

[(2) EXCEPTIONS.—

[(A) IN GENERAL.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

[(B) LIMITATION.—

[(i) IN GENERAL.—A party, witness, or other person with an interest may file a motion with the court to redact any document that would be made available online under this section.

[(ii) REDACTION.—A redaction under this subparagraph shall be made only to—

[(I) the electronic form of the document made available online; and

[(II) the extent necessary to protect important privacy concerns.

[(C) PRIVACY CONCERNS.—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy concerns.

[(d) DOCKETS WITH LINKS TO DOCUMENTS.—The Judicial Conference of the United States, in consultation with the Federal Chief Information Officer, shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

[(e) COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.—Section 503(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking ''shall hereafter'' and inserting ''may, only to the extent necessary,''.

[(f) TIME REQUIREMENTS.—Not later than 2 years after the effective date of this Act, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

[(g) OPT OUT.—

[(1) IN GENERAL.—

[(A) ELECTION.—

[(i) NOTIFICATION.—The Chief Justice of the United States or a chief judge may submit a notification to the Administrative Office of the United States Courts to elect not to comply with any requirement of this section with respect to the Supreme Court, a court of appeals, or district (including the bankruptcy court of that district).

[(ii) CONTENTS.—A notification submitted under this subparagraph shall state—

[(I) the reasons for the noncompliance; and

[(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

[(B) EXCEPTION.—To the extent that the Supreme Court, a court of appeals, or district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

[(2) REPORT.—Not later than 1 year after the effective date of this Act, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

[(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

[(B) summarizes and evaluates all notifications.

[SEC. 206. REGULATORY AGENCIES.

[(a) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable, each agency (as defined under section 551 of title 5, United States Code) shall—

[(1) establish a website with information about that agency; and

[(2) post on the website all information—

[(A) required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code; and

[(B) made available for public inspection and copying under section 552(a) (2) and (5) of title 5, United States Code, after the effective date of this section.

[(b) COMPLIANCE.—An agency may comply with subsection (a)(2) by providing hypertext links on a website directing users to other websites where such information may be found. To the extent that an agency provides hypertext links, the agency shall provide clear instructions to users on how to access the information sought within the external website to which the links direct users.

[(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means, including e-mail and telefacsimile.

[(d) ELECTRONIC DOCKETING.—

[(1) IN GENERAL.—To the extent practicable, agencies shall, in consultation with the Federal Chief Information Officer, and in connection with the forum established under section 3602(a)(10) of title 44, United States Code (as added by section 103 of this Act), establish and maintain on their websites electronic dockets for rulemakings under section 553 of title 5, United States Code.

[(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online—

[(A) all agency notices, publications, or statements in connection with each rulemaking; and

[(B) to the extent practicable, all submissions under section 553(c) of title 5, United States Code, whether or not submitted electronically.

[(e) OPT OUT.—

[(1) IN GENERAL.—

[(A) NOTIFICATION.—An agency may submit a notification to the Federal Chief Information Officer to elect to not comply with any requirement of subsection (d).

[(B) CONTENTS.—A notification submitted under this paragraph shall state—

[(i) the reasons for the noncompliance; and

[(ii) the online methods, if any, or any alternative methods, the agency is using to provide greater public access to regulatory proceedings.

[(2) REPORT.—Not later than October 1, of each year, the Federal Chief Information Officer shall submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives that—

[(A) contains all notifications submitted to the Federal Chief Information Officer under this subsection; and

[(B) summarizes and evaluates all notifications.

[(f) TIME LIMITATION.—To the extent practicable, agencies shall implement subsections (a) and (b) not later than 2 years after the effective date of this Act, and subsection (c) not later than 4 years after that effective date.

[SEC. 207. INTEGRATED REPORTING FEASIBILITY STUDY AND PILOT PROJECTS.

[(a) PURPOSES.—The purposes of this section are to—

[(1) enhance the interoperability of Federal information systems;

[(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

[(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

[(b) DEFINITIONS.—In this section, the term—

[(1) ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code; and

[(2) ''person'' means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

[(c) REPORT.—

[(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Federal Chief Information Officer shall conduct a study and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the feasibility of integrating Federal information systems across agencies.

[(2) CONTENT.—The report under this section shall—

[(A) address the feasibility of integrating data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

[(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements; and

[(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

[(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, without requiring public users to know which agency holds the information;

[(ii) provides methods for input on improving the quality and integrity of the data, including correcting errors in submission, consistent with the need to archive changes made to the data; and

[(iii) allows any person to integrate public information held by the participating agencies;

[(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Federal Chief Information Officer; and

[(E) make recommendations that Congress or the executive branch can implement, through the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

[(d) PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.—

[(1) IN GENERAL.—In order to provide input to the study under subsection (c) the Federal Chief Information Officer shall implement a series of no more than 5 pilot projects that integrate data elements. The Federal Chief Information Officer shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation.

[(2) GOALS OF PILOT PROJECTS.—

[(A) IN GENERAL.—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

[(B) GOALS.—The goals under this paragraph are to—

[(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

[(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

[(iii) develop, or enable the development, of software to reduce errors in electronically submitted information.

[(3) INPUT.—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement.

[(e) CONSULTATION IN PREPARING THE REPORT AND PILOT PROJECT.—The Federal Chief Information Officer shall coordinate with the Office of Information and Regulatory Affairs, and to the extent practicable, shall work with relevant agencies, and State, tribal, and local governments in carrying out the report and pilot projects under this section.

[(f) PRIVACY PROTECTIONS.—The activities authorized in this section shall afford protections for confidential business information consistent with section 552(b)(4) of title 5, United States Code and personal privacy information under section 552a of title 5, United States Code and other relevant law.

[SEC. 208. ONLINE ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.

[(a) DEFINITIONS.—In this section, the term—

[(1) ''essential information'' shall include—

[(A) information identifying any person performing research and development under an agreement and the agency providing the funding;

[(B) an abstract describing the research;

[(C) references to published results; and

[(D) other information determined appropriate by the interagency task force convened under this section; and

[(2) ''federally funded research and development''—

[(A) shall be defined by the interagency task force, with reference to applicable Office of Management and Budget circulars and Department of Defense regulations; and

[(B) shall include funds provided to—

[(i) institutions other than the Federal Government; and

[(ii) Federal research and development centers.

[(b) INTERAGENCY TASK FORCE.—The Federal Chief Information Officer shall—

[(1) convene an interagency task force to—

[(A) review databases, owned by the Federal Government and other entities, that collect and maintain data on federally funded research and development to—

[(i) determine areas of duplication; and

[(ii) identify data that is needed but is not being collected or efficiently disseminated to the public or throughout the Government;

[(B) develop recommendations for the Federal Chief Information Officer on standards for the collection and electronic dissemination of essential information about federally funded research and development that addresses public availability and agency coordination and collaboration; and

[(C) make recommendations to the Federal Chief Information Officer on—

[(i) which agency or agencies should develop and maintain databases and a website containing data on federally funded research and development;

[(ii) whether to continue using existing databases, to use modified versions of databases, or to develop another database;

[(iii) the appropriate system architecture to minimize duplication and use emerging technologies;

[(iv) criteria specifying what federally funded research and development projects should be included in the databases; and

[(v) standards for security of and public access to the data; and

[(2) not later than 1 year of the date of enactment of this Act, after offering an opportunity for public comment, promulgate standards and regulations based on the recommendations, including a determination as to which agency or agencies should develop and maintain databases and a website containing data on federally funded research and development.

[(c) MEMBERSHIPS.—The interagency task force shall consist of the Federal Chief Information Officer and representatives from—

[(1) the Department of Commerce;

[(2) the Department of Defense;

[(3) the Department of Energy;

[(4) the Department of Health and Human Services;

[(5) the National Aeronautics and Space Administration;

[(6) the National Archives and Records Administration;

[(7) the National Science Foundation;

[(8) the National Institute of Standards and Technology; and

[(9) any other agency determined by the Federal Chief Information Officer.

[(d) CONSULTATION.—The task force shall consult with—

[(1) Federal agencies supporting research and development;

[(2) members of the scientific community;

[(3) scientific publishers; and

[(4) interested persons in the private and nonprofit sectors.

[(e) DEVELOPMENT AND MAINTENANCE OF DATABASE AND WEBSITE.—

[(1) IN GENERAL.—

[(A) DATABASE AND WEBSITE.—The agency or agencies determined under subsection (b)(2), with the assistance of any other agency designated by the Federal Chief Information Officer, shall develop—

[(i) a database if determined to be necessary by the Federal Chief Information Officer; and

[(ii) a centralized, searchable website for the electronic dissemination of information reported under this section, with respect to information made available to the public and for agency coordination and collaboration.

[(B) CONFORMANCE TO STANDARDS.—The website and any necessary database shall conform to the standards promulgated by the Federal Chief Information Officer.

[(2) LINKS.—Where the results of the federally funded research have been published, the website shall contain links to the servers of the publishers if possible. The website may include links to other relevant websites containing information about the research.

[(3) OTHER RESEARCH.—The website may include information about published research not funded by the Federal Government, and links to the servers of the publishers.

[(4) DEVELOPMENT AND OPERATION.—The Federal Chief Information Officer shall oversee the development and operation of the website. The website shall be operational not later than 2 years after the date of enactment of this Act.

[(f) PROVISION OF INFORMATION.—Any agency that funds research and development meeting the criteria promulgated by the Federal Chief Information Officer shall provide the required information in the manner prescribed by the Federal Chief Information Officer. An agency may impose reporting requirements necessary for the implementation of this section on recipients of Federal funding as a condition of the funding.

[(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the development and maintenance of the centralized website and any necessary database under this section, $1,000,000 in fiscal year 2002, $5,000,000 in fiscal year 2003, and such sums as may be necessary for fiscal years 2004 through 2006.

[SEC. 209. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

[(a) IN GENERAL.—The Secretary of the Interior, in consultation with the National Institute of Standards and Technology and other agencies, private sector experts, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information.

[(b) FEDERAL CHIEF INFORMATION OFFICER.—The Federal Chief Information Officer shall—

[(1) oversee the interagency initiative to develop common protocols;

[(2) coordinate with State, local, and tribal governments and other interested persons on aligning geographic information; and

[(3) promulgate the standards relating to the protocols.

[(c) COMMON PROTOCOLS.—The common protocols shall be designed to—

[(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible; and

[(2) promote the development of interoperable geographic information systems technologies that will allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public.

[SEC. 210. SHARE-IN-SAVINGS PROGRAM IMPROVEMENTS.

[Section 5311 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 110 Stat. 692; 40 U.S.C. 1491) is amended—

[(1) in subsection (a)—

[(A) by striking ''the heads of two executive agencies to carry out'' and inserting ''heads of executive agencies to carry out a total of five projects under'';

[(B) by striking ''and'' at the end of paragraph (1);

[(C) by striking the period at the end of paragraph (2) and inserting ''; and''; and

[(D) by adding at the end the following:

[''(3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

[''(A) to retain, out of the appropriation accounts of the executive agency in which savings computed under paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

[''(i) the total amount of the savings; over

[''(ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

[''(B) to use the retained amount to acquire additional information technology.'';

[(2) in subsection (b)—

[(A) by inserting ''a project under'' after ''authorized to carry out''; and

[(B) by striking ''carry out one project and''; and

[(3) by striking subsection (c) and inserting the following:

[''(c) EVOLUTION BEYOND PILOT PROGRAM.—(1) The Administrator may provide general authority to the heads of executive agencies to use a share-in-savings contracting approach to the acquisition of information technology solutions for improving mission-related or administrative processes of the Federal Government if—

[''(A) after reviewing the experience under the five projects carried out under the pilot program under subsection (a), the Administrator finds that the approach offers the Federal Government an opportunity to improve its use of information technology and to reduce costs; and

[''(B) issues guidance for the exercise of that authority.

[''(2) For the purposes of paragraph (1), a share-in-savings contracting approach provides for contracting as described in paragraph (1) of subsection (a) together with the sharing and retention of amounts saved as described in paragraphs (2) and (3) of that subsection.

[''(3) In exercising the authority provided to the Administrator in paragraph (1), the Administrator shall consult with the Federal Chief Information Officer.

[''(d) AVAILABILITY OF RETAINED SAVINGS.—(1) Amounts retained by the head of an executive agency under subsection (a)(3) or (c) shall, without further appropriation, remain available until expended and may be used by the executive agency for any of the following purposes:

[''(A) The acquisition of information technology.

[''(B) Support for share-in-savings contracting approaches throughout the agency including—

[''(i) education and training programs for share-in-savings contracting;

[''(ii) any administrative costs associated with the share-in-savings contract from which the savings were realized; or

[''(iii) the cost of employees who specialize in share-in-savings contracts.

[''(2) Amounts so retained from any appropriation of the executive agency not otherwise available for the acquisition of information technology shall be transferred to any appropriation of the executive agency that is available for such purpose.''.

[SEC. 211. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

[(a) IN GENERAL.—

[(1) STUDY ON ENHANCEMENT OF CRISIS RESPONSE.—Not later than 90 days after the date of enactment of this Act, the Federal Emergency Management Agency shall enter into a contract with the National Research Council of the National Academy of Sciences to conduct a study on using information technology to enhance crisis response and consequence management of natural and manmade disasters.

[(2) CONTENT.—The study under this subsection shall address—

[(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

[(i) the Federal Emergency Management Agency; and

[(ii) other Federal, State, and local agencies responsible for crisis response and consequence management; and

[(B) opportunities for research and development on enhanced technologies for—

[(i) improving communications with citizens at risk before and during a crisis;

[(ii) enhancing the use of remote sensor data and other information sources for planning, mitigation, response, and advance warning;

[(iii) building more robust and trustworthy systems for communications in crises;

[(iv) facilitating coordinated actions among responders through more interoperable communications and information systems; and

[(v) other areas of potential improvement as determined during the course of the study.

[(3) REPORT.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the National Research Council shall submit a report on the study, including findings and recommendations to—

[(A) the Committee on Governmental Affairs of the Senate;

[(B) the Committee on Government Reform of the House of Representatives; and

[(C) the Federal Emergency Management Agency.

[(4) INTERAGENCY COOPERATION.—The Federal Emergency Management Agency and other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the National Research Council in carrying out this section.

[(5) EXPEDITED PROCESSING OF SECURITY CLEARANCES.—For the purpose of facilitating the commencement of the study under this section, the Federal Emergency Management Agency and other relevant agencies shall expedite to the fullest extent possible the processing of security clearances that are necessary for the National Research Council.

[(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, $800,000 for fiscal year 2002.

[(b) PILOT PROJECTS.—Based on the results of the research conducted under subsection (a), the Federal Chief Information Officer shall initiate pilot projects with the goal of maximizing the utility of information technology in disaster management. The Federal Chief Information Officer shall cooperate with the Federal Emergency Management Agency, other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

[SEC. 212. FEDERAL INFORMATION TECHNOLOGY TRAINING CENTER.

[(a) IN GENERAL.—In consultation with the Federal Chief Information Officer, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall establish and operate a Federal Information Technology Training Center (in this section referred to as the ''Training Center'').

[(b) FUNCTIONS.—The Training Center shall—

[(1) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

[(2) design curricula, training methods, and training schedules that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

[(3) recruit and train Federal employees in information technology disciplines, as necessary, at a rate that ensures that the Federal Government's information resource management needs are met.

[(c) CURRICULA.—The curricula of the Training Center—

[(1) shall cover a broad range of information technology disciplines corresponding to the specific needs of Federal agencies;

[(2) shall be adaptable to achieve varying levels of expertise, ranging from basic non-occupational computer training to expert occupational proficiency in specific information technology disciplines, depending on the specific information resource management needs of Federal agencies;

[(3) shall be developed and applied according to rigorous academic standards; and

[(4) shall be designed to maximize efficiency through the use of self-paced courses, online courses, on-the-job training, and the use of remote instructors, wherever such features can be applied without reducing training effectiveness or negatively impacting academic standards.

[(d) EMPLOYEE PARTICIPATION.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, agencies shall encourage their employees to participate in the occupational information technology curricula of the Training Center.

[(e) AGREEMENTS FOR SERVICE.—Employees who participate in full-time training at the Training Center for a period of 6 months or longer shall be subject to an agreement for service after training under section 4108 of title 5, United States Code.

[(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management for developing and operating the Training Center, $7,000,000 in fiscal year 2002, and such sums as may be necessary for each fiscal year thereafter.

[SEC. 213. COMMUNITY TECHNOLOGY CENTERS.

[(a) STUDY AND REPORT.—Not later than 2 years after the effective date of this Act, the Secretary of Education, in consultation with the Secretary of Agriculture, the Secretary of Housing and Urban Development, the National Telecommunications and Information Administration, and the Federal Chief Information Officer, shall—

[(1) conduct a study to evaluate the best practices of community technology centers that receive Federal funds; and

[(2) submit a report on the study to—

[(A) the Committee on Governmental Affairs of the Senate;

[(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

[(C) the Committee on Government Reform of the House of Representatives; and

[(D) the Committee on Education and the Workforce of the House of Representatives.

[(b) CONTENT.—The report shall include—

[(1) an evaluation of the best practices being used by successful community technology centers;

[(2) a strategy for—

[(A) continuing the evaluation of best practices used by community technology centers; and

[(B) establishing a network to share information and resources as community technology centers evolve;

[(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

[(4) a database of all community technology centers receiving Federal funds, including—

[(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

[(B) other relevant information;

[(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

[(6) recommendations of how to—

[(A) enhance the development of community technology centers; and

[(B) establish a network to share information and resources.

[(c) COOPERATION.—All agencies that fund community technology centers shall provide to the Department of Education any information and assistance necessary for the completion of the study and the report under this section.

[(d) ASSISTANCE.—

[(1) IN GENERAL.—The Federal Chief Information Officer shall work with the Department of Education, other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

[(A) assist in the implementation of recommendations; and

[(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

[(2) TYPES OF ASSISTANCE.—Assistance under this paragraph may include—

[(A) contribution of funds;

[(B) donations of equipment, and training in the use and maintenance of the equipment; and

[(C) the provision of basic instruction or training material in computer skills and Internet usage.

[(e) TRAINING CENTER.—The Federal Information Technology Training Center established under section 212 of this Act shall make applicable information technology curricula available to members of the public through the community technology centers.

[(f) ONLINE TUTORIAL.—

[(1) IN GENERAL.—The Secretary of Education, in consultation with the Federal Chief Information Officer, the National Science Foundation, and other interested persons, shall develop an online tutorial that—

[(A) explains how to access information and services on the Internet; and

[(B) provides a guide to available online resources.

[(2) DISTRIBUTION.—The Secretary of Education shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

[(g) PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.—In consultation with other agencies and organizations, the Department of Education shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

[(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section $2,000,000 in fiscal year 2002, $2,000,000 in fiscal year 2003, and such sums as are necessary in fiscal years 2004 through 2006.

[SEC. 214. DISPARITIES IN ACCESS TO THE INTERNET.

[(a) STUDY AND REPORT.—Not later than 1 year after the effective date of this Act—

[(1) the Federal Chief Information Officer shall enter into an agreement with a nonprofit, nonpartisan organization to conduct a study on disparities in Internet access across various demographic distributions; and

[(2) the nonprofit, nonpartisan organization shall conduct the study and submit a report to—

[(A) the Committee on Governmental Affairs of the Senate; and

[(B) the Committee on Government Reform of the House of Representatives.

[(b) CONTENT.—The report shall include a study of—

[(1) how disparities in Internet access influence the effectiveness of online Government services;

[(2) how the increase in online Government services is influencing the disparities in Internet access; and

[(3) any related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

[(c) RECOMMENDATIONS.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

[(d) POLICY CONSIDERATIONS.—When promulgating policies and implementing programs regarding the provision of services over the Internet, the Federal Chief Information Officer and agency heads shall—

[(1) consider the impact on persons without access to the Internet; and

[(2) ensure that the availability of Government services has not been diminished for individuals who lack access to the Internet.

[(e) TECHNOLOGY CONSIDERATIONS.—To the extent feasible, the Federal Chief Information Officer and agency heads shall pursue technologies that make Government services and information more accessible to individuals who do not own computers or have access to the Internet.

[(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $950,000 in fiscal year 2002 to carry out this section.

[SEC. 215. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

[(a) DEFINITIONS.—In this section, the term—

[(1) ''agency'' has the meaning given under section 3502(1) of title 44, United States Code;

[(2) ''Board'' means the Advisory Board on Government Information established under subsection (b);

[(3) ''Government information'' means information created, collected, processed, disseminated, or disposed of by or for the Federal Government;

[(4) ''information'' means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms; and

[(5) ''permanent public access'' means the process by which applicable Government information that has been disseminated on the Internet is preserved for current, continuous, and future public access.

[(b) ADVISORY BOARD.—

[(1) ESTABLISHMENT.—There is established the Advisory Board on Government Information. The Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

[(2) MEMBERS.—The Federal Chief Information Officer shall appoint the members of the Board who shall include representatives from appropriate agencies and interested persons from the public, private, and nonprofit sectors.

[(3) FUNCTIONS.—The Board shall conduct studies and submit recommendations as provided by this section to the Federal Chief Information Officer.

[(4) TERMINATION.—The Board shall terminate 3 years after the effective date of this Act.

[(c) CATALOGUING AND INDEXING STANDARDS.—

[(1) AGENCY FUNCTIONS.—

[(A) REPORTS.—Not later than 180 days after the effective date of this Act, each agency shall submit a report to the Board on all cataloguing and indexing standards used by that agency, including taxonomies being used to classify information.

[(B) PRIORITIES AND SCHEDULES.—Not later than 180 days after the issuance of a circular or the promulgation of proposed regulations under paragraph (3), each agency shall consult with interested persons and develop priorities and schedules for making the agency indexing and cataloguing standards fully interoperable with other standards in use in the Federal Government.

[(2) BOARD FUNCTIONS.—The Board shall—

[(A) not later than 1 year after the effective date of this Act—

[(i) review cataloguing and indexing standards used by agencies; and

[(ii) determine whether the systems using those standards are generally recognized, in the public domain, and interoperable; and

[(B) not later than 18 months after the effective date of this Act—

[(i) consult interested persons;

[(ii) analyze and determine agency public domain standards that are not fully interoperable with other standards; and

[(iii) recommend priorities and schedules for making such standards fully interoperable.

[(3) FEDERAL CHIEF INFORMATION OFFICER FUNCTIONS.—

[(A) PROHIBITION OF PROPRIETARY SYSTEMS.—

[(i) IN GENERAL.—After the submission of recommendations by the Board under paragraph (2) and public notice and opportunity for comment, the Federal Chief Information Officer shall prohibit agencies from using any system the Federal Chief Information Officer determines to be proprietary.

[(ii) WAIVER.—The Federal Chief Information Officer may waive the application of clause (i), if the Federal Chief Information Officer determines there is a compelling reason to continue the use of the system.

[(B) INTEROPERABILITY STANDARDS.—Not later than 18 months after the effective date of this Act and after public notice and opportunity for comment, the Office of Management and Budget, acting through the Federal Chief Information Officer, shall issue a circular or promulgate proposed and final regulations requiring the interoperability standards of cataloguing and indexing standards used by agencies.

[(d) PERMANENT PUBLIC ACCESS STANDARDS.—

[(1) AGENCY FUNCTIONS.—

[(A) REPORT TO BOARD.—Not later than 180 days after the effective date of this Act, each agency shall submit a report to the Board on any action taken by the agency to—

[(i) preserve public access to information disseminated by the Federal Government on the Internet; and

[(ii) set standards and develop policies to ensure permanent public access to information disseminated by the Federal Government on the Internet.

[(B) COMPLIANCE WITH REGULATIONS.—Not later than 1 year after the issuance of the circular or the promulgation of final regulations under paragraph (3), and on October 1, of each year thereafter, each agency shall submit a report on compliance of that agency with such regulations to—

[(i) the Federal Chief Information Officer;

[(ii) the Committee on Governmental Affairs of the Senate; and

[(iii) the Committee on Government Reform of the House of Representatives.

[(2) BOARD FUNCTIONS.—

[(A) RECOMMENDED STANDARDS.—Not later than 30 months after the effective date of this Act and after consultation with interested persons, the Board shall submit recommendations to the Federal Chief Information Officer on standards for permanent public access to information disseminated by the Federal Government on the Internet.

[(B) CONTENTS.—The recommendations under subparagraph (A) shall include—

[(i) a definition of the types of information to which the standards apply; and

[(ii) the process by which an agency—

[(I) applies that definition to information disseminated by the agency on the Internet; and

[(II) implements permanent public access.

[(3) FEDERAL CHIEF INFORMATION OFFICER FUNCTIONS.—

[(A) IN GENERAL.—After the submission of recommendations by the Board under paragraph (2) and public notice and opportunity for comment, the Office of Management and Budget, acting through the Federal Chief Information Officer, shall issue a circular or promulgate proposed and final regulations establishing permanent public access standards for agencies.

[(B) COMPLIANCE.—The Federal Chief Information Officer shall—

[(i) work with agencies to ensure timely and ongoing compliance with this subsection; and

[(ii) post agency reports on a centralized searchable database, with a link to the integrated Internet-based system established under section 3602(a)(13) of title 44, United States Code, as added by this Act.

[(e) INVENTORIES.—

[(1) AGENCY FUNCTIONS.—

[(A) IN GENERAL.—

[(i) INVENTORIES.—Not later than 180 days after the effective date of this Act, each agency shall inventory agency websites, including all directories and subdirectories of such websites established by the agency or contractors of the agency.

[(ii) INDIVIDUAL DOCUMENTS.—Nothing in this paragraph shall preclude an agency from inventorying individual documents on a website.

[(iii) ASSISTANCE.—The Federal Chief Information Officer and the General Services Administration shall assist agencies with inventories under this subsection.

[(B) COMPLETION OF INVENTORY.—Each agency shall complete inventories in accordance with the circular issued or regulations promulgated under paragraph (3) and post the inventories on the Internet.

[(2) BOARD FUNCTIONS.—Not later than 1 year after the effective date of this Act, the Board shall—

[(A) consult with interested parties;

[(B) identify for inventory purposes all classes of Government information, except classes of information—

[(i) the existence of which is classified; or

[(ii) is of such a sensitive nature, that disclosure would harm the public interest; and

[(C) make recommendations on—

[(i) the classes of information to be inventoried; and

[(ii) how the information within those classes should be inventoried.

[(3) FEDERAL CHIEF INFORMATION OFFICER FUNCTIONS.—

[(A) GUIDANCE.—After submission of recommendations by the Board under paragraph (2) and public notice and opportunity for comment, the Office of Management and Budget, acting through the Chief Information Officer, shall issue a circular or promulgate proposed and final regulations to provide guidance and requirements for inventorying under this subsection.

[(B) CONTENTS.—The circular or regulations under this paragraph shall include—

[(i) requirements for the completion of inventories of some portion of Government information identified by the Board;

[(ii) the scope of required inventories;

[(iii) a schedule for completion; and

[(iv) the classes of information required to be inventoried by law.

[(C) LINKING OF INVENTORIES.—The Federal Chief Information Officer shall link inventories posted by agencies under this subsection to the integrated Internet-based system established under section 3602(a)(13) of title 44, United States Code, as added by this Act.

[(f) STATUTORY AND REGULATORY REVIEW.—Not later than 180 days after the effective date of this Act, the General Accounting Office shall—

[(1) conduct a review of all statutory and regulatory requirements of agencies to list and describe Government information;

[(2) analyze the inconsistencies, redundancies, and inadequacies of such requirements; and

[(3) submit a report on the review and analysis to—

[(A) the Federal Chief Information Officer;

[(B) the Committee on Governmental Affairs of the Senate; and

[(C) the Committee on Government Reform of the House of Representatives.

[(g) CATALOGUING AND INDEXING DETERMINATIONS.—

[(1) AGENCY FUNCTIONS.—

[(A) PRIORITIES AND SCHEDULES.—Not later than 180 days after the issuance of a circular or the promulgation of proposed regulations under paragraph (3), each agency shall consult with interested persons and develop priorities and schedules for cataloguing and indexing Government information. Agency priorities and schedules shall be made available for public review and comment and shall be linked on the Internet to an agency's inventories.

[(B) COMPLIANCE WITH REGULATIONS.—Not later than 1 year after the issuance of the circular or the promulgation of final regulations under paragraph (3), and on October 1, of each year thereafter, each agency shall submit a report on compliance of that agency with such circular or regulations to—

[(i) the Federal Chief Information Officer;

[(ii) the Committee on Governmental Affairs of the Senate; and

[(iii) the Committee on Government Reform of the House of Representatives.

[(2) BOARD FUNCTIONS.—The Board shall—

[(A) not later than 1 year after the effective date of this Act—

[(i) review the report submitted by the General Accounting Office under subsection (f); and

[(ii) review the types of Government information not covered by cataloguing or indexing requirements; and

[(B) not later than 18 months after receipt of agency inventories—

[(i) consult interested persons;

[(ii) review agency inventories; and

[(iii) make recommendations on—

[(I) which Government information should be catalogued and indexed; and

[(II) the priorities for the cataloguing and indexing of that Government information, including priorities required by statute or regulation.

[(3) FEDERAL CHIEF INFORMATION OFFICER FUNCTIONS.—

[(A) IN GENERAL.—After the submission of recommendations by the Board under paragraph (2) and public notice and opportunity for comment, the Office of Management and Budget, acting through the Federal Chief Information Officer, shall issue a circular or promulgate proposed and final regulations that—

[(i) specify which Government information is required to be catalogued and indexed; and

[(ii) establish priorities for the cataloguing and indexing of that information.

[(B) COMPLIANCE.—The Federal Chief Information Officer shall—

[(i) work with agencies to ensure timely and ongoing compliance with this subsection; and

[(ii) post agency reports and indexes and catalogues on a centralized searchable database, with a link to the integrated Internet-based system established under section 3602(a)(13) of title 44, United States Code, as added by this Act.

[(h) AVAILABILITY OF GOVERNMENT INFORMATION ON THE INTERNET.—Not later than 1 year after the completion of the agency inventory referred to under subsection (e)(1)(B), each agency shall—

[(1) consult with the Board and interested persons;

[(2) determine which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

[(3) develop priorities and schedules for making that Government information available and accessible;

[(4) make such final determinations, priorities, and schedules available for public comment; and

[(5) post such final determinations, priorities, and schedules on an agency website with a link to the integrated Internet-based system established under section 3602(a)(13) of title 44, United States Code, as added by this Act.

[SEC. 216. PUBLIC DOMAIN DIRECTORY OF FEDERAL GOVERNMENT WEBSITES.

[(a) DEFINITIONS.—In this section, the term—

[(1) ''agency'' has the meaning given under section 3502(1) of title 44, United States Code; and

[(2) ''directory'' means a taxonomy of subjects linked to websites that is created with the participation of human editors.

[(b) ESTABLISHMENT.—Not later than 2 years after the effective date of this Act, the Federal Chief Information Officer and each agency shall—

[(1) develop and establish a public domain directory of Federal Government websites; and

[(2) post the directory on the Internet with a link to the integrated Internet-based system established under section 3602(a)(13) of title 44, United States Code, as added by this Act.

[(c) DEVELOPMENT.—With the assistance of each agency, the Federal Chief Information Officer shall—

[(1) direct the development of the directory through a collaborative effort, including input from—

[(A) agency librarians;

[(B) Federal depository librarians; and

[(C) other interested parties; and

[(2) develop a public domain taxonomy of subjects used to review and categorize Federal Government websites.

[(d) UPDATE.—With the assistance of each agency, the Federal Chief Information Officer shall—

[(1) update the directory; and

[(2) solicit interested persons for improvements to the directory.

[SEC. 217. STANDARDS FOR AGENCY WEBSITES.

[Not later than 1 year after the effective date of this Act, the Federal Chief Information Officer shall promulgate standards and criteria for agency websites that include—

[(1) requirements that websites include direct links to—

[(A) privacy statements;

[(B) descriptions of the mission and statutory authority of the agency;

[(C) the electronic reading rooms of the agency relating to the disclosure of information under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

[(D) agency regulations, rules, and rulemakings;

[(E) information about the organizational structure of the agency, with an outline linked to the agency on-line staff directory; and

[(F) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

[(2) minimum agency goals to assist public users to navigate agency websites, including—

[(A) speed of retrieval of search results;

[(B) the relevance of the results; and

[(C) tools to aggregate and disaggregate data.

[SEC. 218. PRIVACY PROVISIONS.

[(a) DEFINITIONS.—In this section, the term—

[(1) ''agency'' has the meaning given under section 551(1) of title 5, United States Code;

[(2) ''information system'' means a discrete set of information resources organized for the collection, processing, maintenance, transmission, and dissemination of information, in accordance with defined procedures that—

[(A) electronically collects or maintains personally identifiable information on 10 or more individuals; or

[(B) makes personally identifiable information available to the public; and

[(3) ''personally identifiable information'' means individually identifiable information about an individual, including—

[(A) a first and last name;

[(B) a home or other physical address including street name and name of a city or town;

[(C) an e-mail address;

[(D) a telephone number;

[(E) a social security number;

[(F) a credit card number;

[(G) a birth date, birth certificate number, or a place of birth; and

[(H) any other identifier that the Federal Chief Information Officer determines permits the identification or physical or online contacting of a specific individual.

[(b) PRIVACY IMPACT ASSESSMENTS.—

[(1) RESPONSIBILITIES OF AGENCIES.—

[(A) IN GENERAL.—Before developing or procuring an information system, or initiating a new collection of personally identifiable information that will be collected, processed, maintained, or disseminated electronically, an agency shall—

[(i) conduct a privacy impact assessment;

[(ii) submit the assessment to the Federal Chief Information Officer; and

[(iii) after completion of any review conducted by the Federal Chief Information Officer, where practicable—

[(I) publish the assessment in the Federal Register; or

[(II) disseminate the assessment electronically.

[(B) SENSITIVE INFORMATION.—Subparagraph (A)(iii) may be modified or waived to protect classified, sensitive, or private information contained in an assessment.

[(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—A privacy impact assessment shall include—

[(A) a description of—

[(i) the information to be collected;

[(ii) the purpose for the collection of the information and the reason each item of information is necessary and relevant;

[(iii)(I) any notice that will be provided to persons from whom information is collected; and

[(II) any choice that an individual who is the subject of the collection of information shall have to decline to provide information;

[(iv) the intended uses of the information and proposed limits on other uses of the information;

[(v) the intended recipients or users of the information and any limitations on access to or reuse or redisclosure of the information;

[(vi) the period for which the information will be retained;

[(vii) whether and by what means the individual who is the subject of the collection of information—

[(I) shall have access to the information about that individual; or

[(II) may exercise other rights under section 552a of title 5, United States Code; and

[(viii) security measures that will protect the information;

[(B) an assessment of the potential impact on privacy relating to risks and mitigation of risks; and

[(C) other information and analysis required under guidance issued by the Federal Chief Information Officer.

[(3) RESPONSIBILITIES OF THE FEDERAL CHIEF INFORMATION OFFICER.—The Federal Chief Information Officer shall—

[(A)(i) develop policies and guidelines for agencies on the conduct of privacy impact assessments; and

[(ii) oversee the implementation of the privacy impact assessment process throughout the Government;

[(B) require agencies to conduct privacy impact assessments in—

[(i) developing or procuring an information system; or

[(ii) planning for the initiation of a new collection of personally identifiable information;

[(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Federal Chief Information Officer determines appropriate;

[(D) assist agencies in developing privacy impact assessment policies; and

[(E) encourage officers and employees of an agency to consult with privacy officers of that agency in completing privacy impact assessments.

[(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

[(1) PRIVACY POLICIES ON WEBSITES.—

[(A) GUIDELINES FOR NOTICES.—The Federal Chief Information Officer shall develop guidelines for privacy notices on agency websites.

[(B) CONTENTS.—The guidelines shall require that a privacy notice include a description of—

[(i) information collected about visitors to the agency's website;

[(ii) the intended uses of the information collected;

[(iii) the choices that an individual may have in controlling collection or disclosure of information relating to that individual;

[(iv) the means by which an individual may be able to—

[(I) access personally identifiable information relating to that individual that is held by the agency; and

[(II) correct any inaccuracy in that information;

[(v) security procedures to protect information collected online;

[(vi) the period for which information will be retained; and

[(vii) the rights of an individual under statutes and regulations relating to the protection of individual privacy, including section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and section 552 of that title (commonly referred to as the Freedom of Information Act).

[(2) PRIVACY POLICIES IN MACHINE-READABLE FORMATS.—

[(A) IN GENERAL.—The Federal Chief Information Officer shall promulgate guidelines and standards requiring agencies to translate privacy policies into a standardized machine-readable format.

[(B) WAIVER OR MODIFICATION.—The Federal Chief Information Officer may waive or modify the application of subparagraph (A), if the Federal Chief Information Officer determines that—

[(i) such application is impracticable; or

[(ii) a more practicable alternative shall be implemented.

[(C) NOTIFICATION.—Not later than 30 days after granting a waiver or modification under subparagraph (B), the Federal Chief Information Officer shall notify the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives of the reasons for the waiver or modification.

[SEC. 219. ACCESSIBILITY TO PEOPLE WITH DISABILITIES.

[All actions taken by Federal departments and agencies under this Act shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

[SEC. 220. NOTIFICATION OF OBSOLETE OR COUNTERPRODUCTIVE PROVISIONS.

[If the Federal Chief Information Officer makes a determination that any provision of this Act (including any amendment made by this Act) is obsolete or counterproductive to the purposes of this Act, as a result of changes in technology or any other reason, the Federal Chief Information Officer shall submit notification of that determination to—

[(1) the Committee on Governmental Affairs of the Senate; and

[(2) the Committee on Government Reform of the House of Representatives.

[TITLE III—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATE

[SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

[Except for those purposes for which an authorization of appropriations is specifically provided in this Act, including the amendments made by this Act, there are authorized to be appropriated such sums as may be necessary to carry out this Act for each of fiscal years 2002 through 2006.

[SEC. 302. EFFECTIVE DATE.

[This Act and the amendments made by this Act shall take effect 120 days after the date of enactment of this Act.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''E-Government Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES
Sec. 101. Management and promotion of Electronic Government services.
Sec. 102. Conforming amendments.
TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES
Sec. 201. Definitions.

Sec. 202. Federal agency responsibilities.
Sec. 203. Compatibility of Executive agency methods for use and acceptance of electronic signatures.
Sec. 204. Federal Internet portal.
Sec. 205. Federal courts.
Sec. 206. Regulatory agencies.
Sec. 207. Accessibility, usability, and preservation of Government information.
Sec. 208. Privacy provisions.
Sec. 209. Federal Information Technology workforce development.
Sec. 210. Common protocols for geographic information systems.
Sec. 211. Share-in-savings program improvements.
Sec. 212. Integrated reporting study and pilot projects.
Sec. 213. Community technology centers.
Sec. 214. Enhancing crisis management through advanced information technology.
Sec. 215. Disparities in access to the Internet.
Sec. 216. Notification of obsolete or counterproductive provisions.

TITLE III—GOVERNMENT INFORMATION SECURITY

Sec. 301. Information security.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

Sec. 401. Authorization of appropriations.
Sec. 402. Effective dates.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires new leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decisionmaking by policy makers.

(8) To promote access to high quality information and services across multiple channels, available to customers through the channels which are preferred by the customer.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

"CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

''Sec.
''3601. Definitions.
''3602. Office of Electronic Government.
''3603. Chief Information Officers Council.
''3604. E-Government Fund.
''3605. E-Government report.

"§3601. Definitions

''In this chapter, the definitions under section 3502 shall apply, and the term—

''(1) 'Administrator' means the Administrator of the Office of Electronic Government established under section 3602;

''(2) 'Council' means the Chief Information Officers Council established under section 3603;

''(3) 'electronic Government' means the use by the Government of web-based Internet applications and other digital technologies, combined with processes that implement these technologies, to—

''(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

''(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

''(4) 'enterprise architecture' means a framework for incorporating business processes, information flows, applications, and infrastructure to support agency and interagency goals;

''(5) 'Fund' means the E-Government Fund established under section 3604;

''(6) 'interoperability' means the ability of different software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner; and

''(7) 'integrated service delivery' means the provision of Internet-based Federal Government information or services integrated according to function rather than separated according to the boundaries of agency jurisdiction.

"§3602. Office of Electronic Government

''(a) There is established in the Office of Management and Budget an Office of Electronic Government.

''(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

''(c) The Administrator shall assist the Director in carrying out—

''(1) all functions under this chapter;

''(2) all of the functions assigned to the Director under title II of the E-Government Act of 2002; and

''(3) other electronic government initiatives, consistent with other statutes.

''(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

''(1) chapter 35;

''(2) division E of the Clinger-Cohen Act of 1996 (division E of Public Law 104–106; 40 U.S.C. 1401 et seq.);

''(3) section 552a of title 5 (commonly referred to as the Privacy Act);

''(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note);

''(5) the Government Information Security Reform Act; and

''(6) the Computer Security Act of 1987 (40 U.S.C. 759 note).

''(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes relating to—

''(1) capital planning and investment control for information technology;

''(2) the development of enterprise architectures;

''(3) information security;

''(4) privacy;

''(5) access to, dissemination of, and preservation of Government information; and

''(6) other areas of electronic Government.

''(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

''(1) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

''(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

''(3) Provide overall leadership and direction to the executive branch on electronic Government by working with authorized officials to establish information resources management policies and requirements, and by reviewing performance of each agency in acquiring, using, and managing information resources.

''(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

''(5) Oversee the distribution of funds from, and ensure appropriate administration of, the E-Government Fund established under section 3604.

''(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

''(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

''(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), to be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties

from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, as follows:

''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

''(B) Standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

''(C) Standards and guidelines for Federal Government computer system efficiency and security.

''(9) Sponsor ongoing dialogue that—

''(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

''(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of information and services; and

''(C) may include—

''(i) development of innovative models—

''(I) for electronic Government management and Government information technology contracts; and

''(II) that may be developed through focused discussions or using separately sponsored research;

''(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

''(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

''(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

''(10) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 204 of the E-Government Act of 2002.

''(11) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

''(12) Assist Federal agencies, including the General Services Administration and the Department of Justice, and the Unites States Access Board in—

''(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

''(B) ensuring compliance with those standards through the budget review process and other means.

''(13) Oversee the development of enterprise architectures within and across agencies.

''(14) Administer the Office of Electronic Government established under section 3602.

''(15) Assist the Director in preparing the E-Government report established under section 3605.

''(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

''§ 3603. Chief Information Officers Council

''(a) There is established in the executive branch a Chief Information Officers Council.

''(b) The members of the Council shall be as follows:

''(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

''(2) The Administrator of the Office of Electronic Government.

''(3) The Administrator of the Office of Information and Regulatory Affairs.

''(4) The chief information officer of each agency described under section 901(b) of title 31.

''(5) The chief information officer of the Central Intelligence Agency.

''(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

''(7) Any other officer or employee of the United States designated by the chairperson.

''(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

''(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

''(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

''(3) The Administrator of General Services shall provide administrative and other support for the Council.

''(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

''(e) The Council shall perform the following functions:

''(1) Develop recommendations for the Director on Government information resources management policies and requirements.

''(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

''(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

''(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title II of the E-Government Act of 2002.

''(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

''(B) Standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

''(C) Standards and guidelines for Federal Government computer system efficiency and security.

''(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

''§ 3604. E-Government Fund

''(a)(1) There is established in the General Services Administration the E-Government Fund.

''(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

''(3) Projects under this subsection may include efforts to—

''(A) make Federal information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

''(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

''(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

''(b)(1) The Administrator shall—

''(A) establish procedures for accepting and reviewing proposals for funding; and

''(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals.

''(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

''(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agencywide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

''(B) Projects shall adhere to fundamental capital planning and investment control processes.

''(C) Agencies shall assess the results of funded projects.

''(D) Agencies shall identify in their proposals resource commitments from the agencies involved, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

''(E) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

''(c) In determining which proposals to recommend for funding, the Administrator—

''(1) shall consider criteria that include whether a proposal—

''(A) identifies the customer group to be served, including citizens, businesses, the Federal Government, or other governments;

''(B) indicates what service or information the project will provide that meets needs of customers;

''(C) directly delivers services to the public or provides the infrastructure for delivery;

''(D) ensures proper security and protects privacy;

''(E) is interagency in scope, including projects implemented by a primary or single agency that—

''(i) could confer benefits on multiple agencies; and

''(ii) have the support of other agencies;

''(F) supports integrated service delivery;

''(G) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation;

''(H) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

''(I) is new or innovative and does not supplant existing funding streams within agencies; and

''(2) may also rank proposals based on criteria that include whether a proposal—

''(A) has Governmentwide application or implications;

''(B) has demonstrated support by the customers to be served;

''(C) integrates Federal with State, local, or tribal approaches to service delivery;

''(D) identifies resource commitments from nongovernmental sectors;

''(E) identifies resource commitments from the agencies involved; and

''(F) uses web-based technologies to achieve objectives.

''(d) The Fund may be used to fund the integrated Internet-based system under section 204 of the E-Government Act of 2002.

''(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

''(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3605.

''(2) The report shall describe—

''(A) all projects which the Director has approved for funding from the Fund; and

''(B) the results that have been achieved to date for these funded projects.

''(g)(1) There are authorized to be appropriated to the Fund—

''(A) $45,000,000 for fiscal year 2003;

''(B) $50,000,000 for fiscal year 2004;

''(C) $100,000,000 for fiscal year 2005;

''(D) $150,000,000 for fiscal year 2006; and

''(E) such sums as are necessary for fiscal year 2007.

''(2) Funds appropriated under this subsection shall remain available until expended.

''§ 3605. E-Government report

''(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''(b) The report shall contain—

''(1) a summary of the information reported by agencies under section 202 (f) of the E-Government Act of 2002;

''(2) the information required to be reported by section 3604(f); and

''(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

''36. Management and Promotion of Electronic Government Services ... 3601''.

SEC. 102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by inserting after section 112 the following:

''SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

''The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 112 the following:

''Sec. 113. Electronic Government and information technologies.''.

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

''(5) Chair the Chief Information Officers Council established under section 3603 of title 44.''.

(c) OFFICE OF ELECTRONIC GOVERNMENT.—

(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

''§ 507. Office of Electronic Government

''The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

''507. Office of Electronic Government.''.

TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this Act (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this Act by the Director, and the information technology standards promulgated under this Act by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 204.

(b) PERFORMANCE INTEGRATION.—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives and strategic goals.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals to key customer segments, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to key customer segments and shall use information technology in delivering information and services to common customer groups.

(c) AVOIDING DIMINISHED ACCESS.—When promulgating policies and implementing programs regarding the provision of information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government services and information has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government services and information more accessible to individuals who do not own computers or lack access to the Internet.

(d) ACCESSIBILITY TO PEOPLE WITH DISABILITIES.—All actions taken by Federal departments and agencies under this Act shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) CHIEF INFORMATION OFFICERS.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated under this Act by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(f) E-GOVERNMENT STATUS REPORT.—

(1) IN GENERAL.—Each agency shall compile and submit to the Director an E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) SUBMISSION.—Each agency shall submit a report under this subsection—

(A) to the Director at such time and in such manner as the Director requires; and

(B) consistent with related reporting requirements.

(g) USE OF TECHNOLOGY.—Nothing in this Act supersedes the responsibility of an agency to use information technology to deliver information and services that fulfill the statutory mission and programs of the agency.

SEC. 203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) PURPOSE.—The purpose of this section is to achieve interoperable implementation of electronic signatures for secure electronic government.

(b) ELECTRONIC SIGNATURES.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105–277; 112 Stat. 2681–749 through 2681–751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant procedures and standards promulgated by the Director.

(c) AUTHORITY FOR ELECTRONIC SIGNATURES.—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including certification of digital signatures.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, or for other activities consistent with this section, $8,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 204. FEDERAL INTERNET PORTAL.

(a) IN GENERAL.—

(1) PUBLIC ACCESS.—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) CRITERIA.—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key customer groups, including citizens, business, and other governments, and integrated according to function rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration $15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 205. FEDERAL COURTS.

(a) INDIVIDUAL COURT WEBSITES.—The Chief Justice of the United States, the chief judge of each circuit and district, and the chief bankruptcy judge of each district shall establish with respect to the Supreme Court or the respective court of appeals, district, or bankruptcy court of a district, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) MAINTENANCE OF DATA ONLINE.—

(1) UPDATE OF INFORMATION.—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) CLOSED CASES.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) ELECTRONIC FILINGS.—

(1) IN GENERAL.—Except as provided under paragraph (2), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) EXCEPTIONS.—

(A) IN GENERAL.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(B) LIMITATION.—

(i) IN GENERAL.—A party, witness, or other person with an interest may file a motion with the court to redact any document that would be made available online under this section.

(ii) REDACTION.—A redaction under this subparagraph shall be made only to—

(I) the electronic form of the document made available online; and

(II) the extent necessary to protect important privacy concerns.

(3) PRIVACY AND SECURITY CONCERNS.—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(d) DOCKETS WITH LINKS TO DOCUMENTS.—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking ''shall hereafter'' and inserting ''may, only to the extent necessary,''.

(f) TIME REQUIREMENTS.—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

(g) DEFERRAL.—

(1) IN GENERAL.—

(A) ELECTION.—

(i) NOTIFICATION.—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) CONTENTS.—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) EXCEPTION.—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) REPORT.—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 206. REGULATORY AGENCIES.

(a) PURPOSES.—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the Administrative Procedures Act).

(b) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code.

(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means, including e-mail and telefacsimile.

(d) ELECTRONIC DOCKETING.—

(1) IN GENERAL.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) TIME LIMITATION.—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3605 of title 44 (as added by this Act).

SEC. 207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) DEFINITIONS.—In this section, the term—

(1) ''agency'' has the meaning given under section 3502(1) of title 44, United States Code;

(2) ''Committee'' means the Interagency Committee on Government Information established under subsection (c);

(3) ''directory'' means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors;

(4) ''Government information'' means information created, collected, processed, disseminated, or disposed of by or for the Federal Government; and

(5) ''information'' means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms.

(c) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) MEMBERSHIP.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) FUNCTIONS.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress;

(C) act as a resource to assist agencies in the effective implementation of policies derived from this Act; and

(D) share effective practices for access to, dissemination of, and retention of Federal information.

(4) TERMINATION.—The Committee shall terminate on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) CATEGORIZING OF INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the

Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(iii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 180 days after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(ii) in ways that are interoperable across agencies;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) COMPLIANCE REPORT.—After the submission of agency reports under paragraph (4), the Director shall—

(A) annually report to Congress on compliance with this subsection in the E-Government report under section 3605 of title 44, United States Code (as added by this Act); and

(B) modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(f), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) FUNCTIONS OF THE ARCHIVIST.—Not later than 180 days after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(f), on compliance of that agency with the policies issued under paragraph (2)(A).

(5) FUNCTIONS OF THE DIRECTOR.—After the submission of agency reports under paragraph (4), the Director shall annually report to Congress on compliance with this subsection in the E-Government report under section 3605 of title 44 (as added by this Act).

(f) EDUCATIONAL RESOURCE MATERIALS.—

(1) COMMITTEE FUNCTIONS.—

(A) IDENTIFICATION OF AGENCIES.—Not later than 90 days after the date of enactment of this Act, the Committee shall identify agencies involved in disseminating educational resources materials.

(B) RECOMMENDATIONS.—Not later than 15 months after the date of enactment of this Act, working with the Librarian of Congress, the Archivist of the United States, the Director or the Institute of Museum and Library Services, and the agencies previously identified by the Committee, and after consultation with interested parties, including libraries, historical societies, archival institutions, and other cultural and academic organizations, the Committee shall submit recommendations to the Director on—

(i) policies to promote coordinated access to educational resources materials on the Internet; and

(ii) the imposition of timetables for the implementation of the policies by agencies, where appropriate.

(2) FUNCTIONS OF THE DIRECTOR.—

(A) Not later than 180 days after the submission of recommendations by the Committee under paragraph (1)(B), the Director shall issue policies—

(i) promoting coordinated access to educational resources materials on the Internet; and

(ii) imposing timetables for the implementation of the policies by agencies, as appropriate.

(B) After the submission of agency reports under paragraph (3), the Director shall—

(i) annually report to Congress on compliance with this subsection in the E-Government report under section 3605 of title 44 (as added by this Act); and

(ii) refine the policies, as needed, in consultation with the Committee and interested parties.

(3) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established in section 202(f), on compliance of that agency with the policies issued under paragraph (2)(A).

(g) AVAILABILITY OF GOVERNMENT INFORMATION ON THE INTERNET.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each agency shall—

(A) consult with the Committee and solicit public comment;

(B) determine which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(C) develop priorities and schedules for making that Government information available and accessible;

(D) make such final determinations, priorities, and schedules available for public comment;

(E) post such final determinations, priorities, and schedules on the Internet; and

(F) submit such final determinations, priorities, and schedules to the Director, in the report established under section 202(f).

(2) UPDATE.—Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(h) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEFINITIONS.—In this subsection, the term—

(A) ''essential information'' shall include—

(i) the name, mission, and annual budget authority for research and development of all Federal agencies, constituent bureaus of agencies, the constituent programs of such bureaus, and the constituent projects of such programs; and

(ii) details on every separable research and development task performed intramurally within the Federal entities described under clause (i) on every extramural research and development award made by the Federal entities described under clause (i), and on every individual research and development task or award, including field work proposals, made by a federally funded research and development center, including—

(I) the unique identifying number of the task or award;

(II) the dates upon which the research and development task or award is expected to start and end;

(III) an abstract describing the objective and the scientific and technical focus of the research and development task or award;

(IV) the name of the principal person or persons performing the research and development, their contact information and institutional affiliations, and the geographic location of the institution;

(V) the total amount of Federal funds expected to be provided to the research and development task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the research and development task or award is ongoing;

(VI) the type of legal instrument under which the research and development funds were transferred to the recipient;

(VII) the name and location of any industrial partner formally involved in the performance of the research and development task or award;

(VIII) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information determined to be essential information, and the reasons for such restrictions; and

(IX) such other information as may be determined to be appropriate; and

(B) ''Federal research and development''—

(i) means those activities which constitute basic research, applied research, and development as defined by the Director; and

(ii) shall include all funds spent on Federal research and development that are provided to—

(I) institutions and entities not a part of the Federal Government, including—

(aa) State, local, and foreign governments;

(bb) industrial firms;

(cc) educational institutions;

(dd) not-for-profit organizations;

(ee) federally funded research and development centers; and

(ff) private individuals; and

(II) entities of the Federal Government, including research and development laboratories, centers, and offices.

(2) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE DATABASE AND WEBSITE.—

(A) DATABASE AND WEBSITE.—The Director of the National Science Foundation, working with the Director of the Office of Management and Budget and the Director of the Office of Science and Technology Policy, shall develop and maintain—

(i) a database that fully integrates, to the maximum extent feasible, all essential information on Federal research and development that is gathered and maintained by Federal agencies; and

(ii) 1 or more websites upon which all or part of the database of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) OVERSIGHT.—The Director of the Office of Management and Budget shall oversee the development and operation of the database and website and issue any guidance determined necessary to ensure that agencies provide all essential information requested under this subsection.

(3) AGENCY FUNCTIONS.—

(A) IN GENERAL.—Any agency that funds Federal research and development of this subsection shall—

(i) provide the information required to populate the database in the manner prescribed by the Director of the Office of Management and Budget; and

(ii) report annually to the Director, in the report established under section 202(f), on compliance of that agency with the requirements established under this subsection.

(B) REQUIREMENTS.—An agency may impose reporting requirements necessary for the implementation of this section on recipients of Federal research and development funding as a condition of receiving the funding.

(4) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the database established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(5) FUNCTIONS OF THE DIRECTOR.—

(A) RECOMMENDATIONS.—After submission of recommendations by the Committee under paragraph (4), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3605 of title 44 (as added by this Act).

(B) COMPLIANCE.—The Director shall annually report to Congress on agency compliance with the requirements established under paragraph (3).

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation for the development, maintenance, and operation of the governmentwide database and website under this subsection—

(A) $2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

(i) PUBLIC DOMAIN DIRECTORY OF FEDERAL GOVERNMENT WEBSITES.—

(1) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(A) develop and establish a public domain directory of Federal Government websites; and

(B) post the directory on the Internet with a link to the integrated Internet-based system established under section 204.

(2) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(A) direct the development of the directory through a collaborative effort, including input from—

(i) agency librarians;

(ii) information technology managers;

(iii) program managers;

(iv) records managers;

(v) Federal depository librarians; and

(vi) other interested parties; and

(B) develop a public domain taxonomy of subjects used to review and categorize Federal Government websites.

(3) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(A) update the directory as necessary, but not less than every 6 months; and

(B) solicit interested persons for improvements to the directory.

(j) STANDARDS FOR AGENCY WEBSITES.—Not later than 1 year after the effective date of this title, the Director shall promulgate guidance for agency websites that include—

(1) requirements that websites include direct links to—

(A) descriptions of the mission and statutory authority of the agency;

(B) the electronic reading rooms of the agency relating to the disclosure of information under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(C) information about the organizational structure of the agency, with an outline linked to the agency online staff directory; and

(D) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(2) minimum agency goals to assist public users to navigate agency websites, including—

(A) speed of retrieval of search results;

(B) the relevance of the results; and

(C) tools to aggregate and disaggregate data.

SEC. 208. PRIVACY PROVISIONS.

(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) PRIVACY IMPACT ASSESSMENTS.—

(1) RESPONSIBILITIES OF AGENCIES.—

(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) in subsection (b)(1)(B), before—

(i) developing or procuring information technology that collects, maintains, or disseminates information that includes any identifier permitting the physical or online contacting of a specific individual; or

(ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated electronically; and

(II) includes any identifier permitting the physical or online contacting of a specific individual, if the information concerns 10 or more persons.

(B) AGENCY ACTIVITIES.—To the extent required under subparagraph (A), each agency shall—

(i) conduct a privacy impact assessment;

(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available, through the website of the agency, publication in the Federal Register, or other means.

(C) SENSITIVE INFORMATION.—Subparagraph (B)(iii) may be modified or waived to protect classified, sensitive, or private information contained in an assessment.

(D) COPY TO DIRECTOR.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—

(A) IN GENERAL.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) GUIDANCE.—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of personally identifiable information in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

(I) what information is to be collected;

(II) why the information is being collected;

(III) the intended use of the agency of the information;

(IV) with whom the information will be shared;

(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the Privacy Act).

(3) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Director determines appropriate.

(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

(1) PRIVACY POLICIES ON WEBSITES.—

(A) GUIDELINES FOR NOTICES.—The Director shall develop guidance for privacy notices on agency websites.

(B) CONTENTS.—The guidance shall require that a privacy notice address—

(i) what information is to be collected;

(ii) why the information is being collected;

(iii) the intended use of the agency of the information;

(iv) with whom the information will be shared;

(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(vi) how the information will be secured; and

(vii) a statement of the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the Privacy Act), and other laws relevant to the protection of the privacy of an individual.

(2) PRIVACY POLICIES IN MACHINE-READABLE FORMATS.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

SEC. 209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

(a) PURPOSE.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver information and services.

(b) IN GENERAL.—In consultation with the Director, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall oversee the development and operation of a Federal Information Technology Training Center (in this section referred to as the ''Training Center'').

(c) FUNCTIONS.—The Training Center shall—

(1) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(2) oversee the development of curricula, training methods, and training schedules that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(3) oversee the training of Federal employees in information technology disciplines, as necessary, at a rate that ensures that the information resource management needs of the Federal Government are met.

(d) EMPLOYEE PARTICIPATION.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in the occupational information technology curricula of the Training Center.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the

Office of Personnel Management for overseeing the development and operation of the Training Center, $7,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 210. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) PURPOSES.—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) DEFINITION.—In this section, the term ''geographic information'' means information systems that involve locational data, such as maps or other geospatial information resources.

(c) IN GENERAL.—

(1) COMMON PROTOCOLS.—The Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Secretary of the Interior shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) INTERAGENCY GROUP.—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) DIRECTOR.—The Director shall—

(1) oversee the interagency initiative to develop common protocols;

(2) oversee the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) oversee the adoption of common standards relating to the protocols.

(e) COMMON PROTOCOLS.—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

SEC. 211. SHARE-IN-SAVINGS PROGRAM IMPROVEMENTS.

Section 5311 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 110 Stat. 692; 40 U.S.C. 1491) is amended—

(1) in subsection (a)—

(A) by striking ''the heads of two executive agencies to carry out'' and inserting ''heads of executive agencies to carry out a total of 5 projects under'';

(B) by striking ''and'' at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(D) by adding at the end the following:

''(3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

''(A) to retain, out of the appropriation accounts of the executive agency in which savings computed under paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

''(i) the total amount of the savings; over

''(ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

''(B) to use the retained amount to acquire additional information technology.'';

(2) in subsection (b)—

(A) by inserting ''a project under'' after ''authorized to carry out''; and

(B) by striking ''carry out one project and''; and

(3) in subsection (c), by inserting before the period ''and the Administrator for the Office of Electronic Government''; and

(4) by inserting after subsection (c) the following:

''(d) REPORT.—

''(1) IN GENERAL.—After 5 pilot projects have been completed, but no later than 3 years after the effective date of this subsection, the Director shall submit a report on the results of the projects to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''(2) CONTENTS.—The report shall include—

''(A) a description of the reduced costs and other measurable benefits of the pilot projects;

''(B) a description of the ability of agencies to determine the baseline costs of a project against which savings would be measured; and

''(C) recommendations of the Director relating to whether Congress should provide general authority to the heads of executive agencies to use a share-in-savings contracting approach to the acquisition of information technology solutions for improving mission-related or administrative processes of the Federal Government.''.

SEC. 212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) PURPOSES.—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) DEFINITIONS.—In this section, the term—

(1) ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) ''person'' means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) REPORT.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Director shall conduct a study and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) CONTENTS.—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements; and

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make recommendations that Congress or the executive branch can implement, through the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.—

(1) IN GENERAL.—In order to provide input to the study under subsection (c), the Director shall designate a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation.

(2) GOALS OF PILOT PROJECTS.—

(A) IN GENERAL.—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) GOALS.—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development, of software to reduce errors in electronically submitted information.

(3) INPUT.—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) PRIVACY PROTECTIONS.—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law; and

(2) personal privacy information under section 552a of title 5, United States Code, and other relevant law.

SEC. 213. COMMUNITY TECHNOLOGY CENTERS.

(a) PURPOSES.—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

(b) STUDY AND REPORT.—Not later than 2 years after the effective date of this title, the Secretary of Education, in consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, the Director of the National Science Foundation, and the Director of the Office of Management and Budget, shall—

(1) conduct a study to evaluate the best practices of community technology centers that receive Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) CONTENTS.—The report may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers receiving Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) COOPERATION.—All agencies that fund community technology centers shall provide to the Department of Education any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) IN GENERAL.—The Director of the Office of Management and Budget shall work with the Secretary of the Department of Education, other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) TYPES OF ASSISTANCE.—Assistance under this paragraph may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) ONLINE TUTORIAL.—

(1) IN GENERAL.—The Secretary of Education, in consultation with the Director of the Office of Management and Budget, the Director of the National Science Foundation, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) DISTRIBUTION.—The Secretary of Education shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.—In consultation with other agencies and organizations, the Department of Education shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

(1) $2,000,000 in fiscal year 2003;

(2) $2,000,000 in fiscal year 2004; and

(3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

(a) PURPOSE.—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness and response while ensuring the availability of such information across multiple access channels.

(b) IN GENERAL.—

(1) STUDY ON ENHANCEMENT OF CRISIS RESPONSE.—Not later than 90 days after the date of enactment of this Act, the Federal Emergency Management Agency shall enter into a contract to conduct a study on using information technology to enhance crisis response and consequence management of natural and manmade disasters.

(2) CONTENTS.—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis response and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

(3) REPORT.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Federal Emergency Management Agency shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(4) INTERAGENCY COOPERATION.—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Federal Emergency Management Agency in carrying out this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) PILOT PROJECTS.—Based on the results of the research conducted under subsection (a), the Federal Emergency Management Agency shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Federal Emergency Management Agency shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) STUDY AND REPORT.—

(1) STUDY.—Not later than 90 days after the date of enactment of this Act, the Director of the National Science Foundation shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director of the National Science Foundation shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the Council.

(b) CONTENTS.—The report shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) RECOMMENDATIONS.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation $950,000 in fiscal year 2003 to carry out this section.

SEC. 216. NOTIFICATION OF OBSOLETE OR COUNTERPRODUCTIVE PROVISIONS.

If the Director of the Office of Management and Budget makes a determination that any provision of this Act (including any amendment made by this Act) is obsolete or counterproductive to the purposes of this Act, as a result of changes in technology or any other reason, the Director shall submit notification of that determination to—

(1) the Committee on Governmental Affairs of the Senate; and

(2) the Committee on Government Reform of the House of Representatives.

TITLE III—GOVERNMENT INFORMATION SECURITY

SEC. 301. INFORMATION SECURITY.

(a) ADDITION OF SHORT TITLE.—Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–266) is amended by inserting after the heading for the subtitle the following new section:

"SEC. 1060. SHORT TITLE.

''This subtitle may be cited as the 'Government Information Security Reform Act'.''.

(b) CONTINUATION OF AUTHORITY.—

(1) IN GENERAL.—Section 3536 of title 44, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3536.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title I or II, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles I and II for each of fiscal years 2003 through 2007.

SEC. 402. EFFECTIVE DATES.

(a) TITLES I AND II.—

(1) IN GENERAL.—Except as provided under paragraph (2), titles I and II and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) IMMEDIATE ENACTMENT.—Sections 207, 214, 215, and 216 shall take effect on the date of enactment of this Act.

(b) TITLES III AND IV.—Title III and this title shall take effect on the date of enactment of this Act.

Amend the title so as to read: ''A bill to enhance the management and promotion of electronic Government services and processes by establishing an Office of Electronic Government within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.''.

Mr. MCCAIN. Mr. President, I urge my colleagues to pass S. 803, the E-Government Act of 2002. I believe that this bill will play an important role in making the Federal Government more responsive to our citizens.

The Internet would seem to be an ideal way for our constituents, especially those farthest from Washington, to get information and contact the government. However, many of our constituents complain that it is hard to access information from the government because the various agencies are not all prepared to deal with the advancements of the ''digital age.'' Meanwhile, some agencies are using the Internet in groundbreaking ways to improve their processes. In addition, the public has found that ''e-government'' programs have made interactions with the Federal Government more friendly and time-efficient. Today, it is easier for American citizens to find out about a government program, look up a regulation, apply for a grant, or download educational materials by using the Internet than by contacting a distant Federal agency.

This legislation has a number of provisions to promote innovative thinking in the field of ''e-government,'' while also assisting Federal departments and agencies in crossing into the 21st Century. The legislation establishes an Office of Electronic Government, headed by a Senate-confirmed administrator, within the Office of Management and Budget. This new administrator will sponsor a dialogue between government agencies, the public, and private and non-profit entities to spur creative new ideas for ''e-government.'' In addition the administrator will direct ''e-government'' initiatives, and oversee an interagency ''e-government'' fund to invest in cross-cutting projects with government-wide application. The bill also promotes the use of the Internet and other technologies to provide more information and better services to Americans through Internet strategies, such as the Federal ''FirstGov'' portal. Finally, the bill includes a number of provisions that should make it easier for the public to access information about Federal scientific research, the Federal courts, and other areas of interest.

I would like especially to commend my friends, Senators LIEBERMAN and THOMPSON, the chairman and ranking member of the Government Affairs Committee, for their hard work on this legislation. This legislation addresses a complex issue that effects many agencies throughout government and its development required persistence and careful thought. The result of their efforts will improve Federal Government operations, and make the Government more responsive to the citizens we represent.

Mr. REID. Mr. President, it is my understanding Senators LIEBERMAN and THOMPSON have a substitute amendment that is at the desk. I ask unanimous consent that the amendment be considered and agreed to; that the motion to reconsider be laid upon the table; that the committee substitute amendment, as amended, be agreed to; that the bill, as amended, be read a third time and passed; that the motion to reconsider be laid upon the table, without intervening action or debate; that the title amendment be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4172) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 803), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

The title was amended so as to read: ''A bill to enhance the management and promotion of electronic Government services and processes by establishing an Office of Electronic Government within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.''.

ORDER FOR BILL TO BE PRINTED—S. 2514

Mr. REID. Mr. President, I ask unanimous consent that S. 2514, as passed by the Senate, be printed.

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

NATIONAL FRAUD AGAINST SENIOR CITIZENS AWARENESS WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 454, S. Res. 281.

The PRESIDING OFFICER. The clerk will report the title.

The legislative clerk read as follows:

A resolution (S. Res. 281) designating the week beginning August 25, 2002, as ''National Fraud Against Senior Citizens Awareness Week.''

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

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 281) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 281

Whereas perpetrators of mail, telemarketing, and Internet fraud frequently target their schemes at senior citizens because seniors are often vulnerable and trusting people;

Whereas, as victims of such schemes, many senior citizens have been robbed of their hard-earned life savings and frequently pay an emotional cost, losing not only their money, but also their self-respect and dignity;

Whereas perpetrators of fraudulent schemes against American seniors often operate outside the United States, reaching their victims through the mail, telephone lines, and the Internet;

Whereas the Deceptive Mail Prevention and Enforcement Act increased the power of the United States Postal Service to protect consumers against those who use deceptive mailings featuring games of chance, sweepstakes, skill contests, and facsimile checks;

Whereas the Postal Inspection Service responded to 66,000 mail fraud complaints, arrested 1,691 mail fraud offenders, convicted 1,477 such offenders, and initiated 642 civil or administrative actions in fiscal year 2001;

Whereas mail fraud investigations by the Postal Inspection Service in fiscal year 2001 resulted in over $1,200,000,000 in court-ordered and voluntary restitution payments;

Whereas the Postal Inspection Service, in an effort to curb cross-border fraud, is involved in 3 major fraud task forces with law enforcement officials in Canada, namely, Project Colt in Montreal, The Strategic Partnership in Toronto, and Project Emptor in Vancouver;

Whereas consumer awareness is the best protection from fraudulent schemes; and

Whereas it is vital to increase public awareness of the enormous impact that fraud has on senior citizens in the United States, and to educate the public, senior citizens, their families, and their caregivers about the signs of fraudulent activities and how to report suspected fraudulent activities to the appropriate authorities: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning August 25, 2002, as ''National Fraud Against Senior Citizens Awareness Week''; and

(2) requests the President to issue a proclamation calling on the people of the United States to observe the week with appropriate activities and programs to—

(A) prevent the purveyors of fraud from victimizing senior citizens in the United States; and

(B) educate and inform the public, senior citizens, their families, and their caregivers

about fraud perpetrated through mail, telemarketing, and the Internet.

HISTORICAL SIGNIFICANCE OF 100TH ANNIVERSARY OF KOREAN IMMIGRATION TO UNITED STATES

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 185 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 185) recognizing the historical significance of the 100th anniversary of Korean immigration to the United States.

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

Mr. REID. I ask unanimous consent that the resolution and preamble be agreed; that the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 185) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 185

Whereas missionaries from the United States played a central role in nurturing the political and religious evolution of modern Korea, and directly influenced the early Korean immigration to the United States;

Whereas in December 1902, 56 men, 21 women, and 25 children left Korea and traveled across the Pacific Ocean on the S.S. Gaelic and landed in Honolulu, Hawaii on January 13, 1903;

Whereas the early Korean-American community was united around the common goal of attaining freedom and independence for their colonized mother country;

Whereas members of the early Korean-American community served with distinction in the Armed Forces of the United States during World War I, World War II, and the Korean Conflict;

Whereas on June 25, 1950, Communist North Korea invaded South Korea with approximately 135,000 troops, thereby initiating the involvement of approximately 5,720,000 personnel of the United States Armed Forces who served during the Korean Conflict to defeat the spread of communism in Korea and throughout the world;

Whereas casualties in the United States Armed Forces during the Korean Conflict included 54,260 dead (of whom 33,665 were battle deaths), 92,134 wounded, and 8,176 listed as missing in action or prisoners of war;

Whereas in the early 1950s, thousands of Koreans, fleeing from war, poverty, and desolation, came to the United States seeking opportunities;

Whereas Korean-Americans, like waves of immigrants to the United States before them, have taken root and thrived in the United States through strong family ties, robust community support, and countless hours of hard work;

Whereas Korean immigration to the United States has invigorated business, church, and academic communities in the United States;

Whereas according to the 2000 United States Census, Korean-Americans own and operate 135,571 businesses across the United States that have gross sales and receipts of $46,000,000,000 and employ 333,649 individuals with an annual payroll of $5,800,000,000;

Whereas the contributions of Korean-Americans to the United States include, the invention of the first beating heart operation for coronary artery heart disease, the development of the nectarine, a 4-time Olympic gold medalist, and achievements in engineering, architecture, medicine, acting, singing, sculpture, and writing;

Whereas Korean-Americans play a crucial role in maintaining the strength and vitality of the United States-Korean partnership;

Whereas the United States-Korean partnership helps undergird peace and stability in the Asia-Pacific region and provides economic benefits to the people of the United States and Korea and to the rest of the world; and

Whereas beginning in 2003, more than 100 communities throughout the United States will celebrate the 100th anniversary of Korean immigration to the United States: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the achievements and contributions of Korean-Americans to the United States over the past 100 years; and

(2) requests that the President issue a proclamation calling on the people of the United States and interested organizations to observe the anniversary with appropriate programs, ceremonies, and activities.

Daily Digest

HIGHLIGHTS

Senate passed National Defense Authorization bills.

The House passed H.R. 5010, Department of Defense Appropriations.

The House agreed to H. Res. 459, Urging the Ninth Circuit Court of Appeals to Rehear Their Erroneous Ruling That the Pledge of Allegiance is an Unconstitutional Endorsement of Religion.

The House passed H.R. 5011, Military Construction Appropriations.

The House passed S. 2578, Public Debt Limit Increase—clearing the measure for the President.

The House passed H.R. 4954, Medicare Modernization and Prescription Drug Act.

Senate

Chamber Action

Routine Proceedings, pages S6177–S6296

Measures Introduced: Twelve bills and five resolutions were introduced, as follows: S. 2688–2699, S. Res. 293–295, and S. Con. Res. 125–126.

Pages S6249–50

Measures Reported:

S. 1175, to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, with an amendment in the nature of a substitute. (S. Rept. No. 107–183)

H.R. 1384, to amend the National Trails System Act to designate the route in Arizona and New Mexico which the Navajo and Mescalero Apache Indian tribes were forced to walk in 1863 and 1864, for study for potential addition to the National Trails System. (S. Rept. No. 107–184)

H.R. 2234, to revise the boundary of the Tumacacori National Historical Park in the State of Arizona. (S. Rept. No. 107–185)

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, with an amendment. (S. Rept. No. 107–186)

S. 2428, to amend the National Sea Grant College Program Act. (S. Rept. No. 107–187)

H.R. 3322, to authorize the Secretary of the Interior to construct an education and administrative center at the Bear River Migratory Bird Refuge in Box Elder County, Utah.

H.R. 3958, to provide a mechanism for the settlement of claims of the State of Utah regarding portions of the Bear River Migratory Bird Refuge located on the shore of the Great Salt Lake, Utah.

S. Res. 281, designating the week beginning August 25, 2002, as "National Fraud Against Senior Citizens Awareness Week".

S. Res. 284, expressing support for "National Night Out" and requesting that the President make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration.

S. 1339, to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, with an amendment.

S. 2134, to allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states, with an amendment.

S. 2633, to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing,

distributing, or using any controlled substance, and for other purposes. **Page S6249**

Measures Passed:

National Defense Authorization: By 97 yeas to 2 nays (Vote No. 165), Senate passed S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, and to prescribe personnel strengths for such fiscal year for the Armed Forces, after taking action on the following amendments proposed thereto:

Pages S6178–80, S6182–6200, S6203–25.

Adopted:

Cleland/McCain Amendment No. 4033, to increase active duty end strengths. **Pages S6183–87**

Warner Amendment No. 4169, to temporarily authorize higher partial basic allowance for housing for certain members assigned to privatized housing. **Page S6189**

Warner Amendment No. 4170, to set aside $20,000,000 for the disposal of obsolete vessels of the National Defense Reserve Fleet. **Pages S6189–90**

Reed/Levin Modified Amendment No. 4029, to require a report on the results of each flight test of the Ground-based Midcourse national missile defense system. **Pages S6196–99**

Wyden/Smith (OR) Amendment No. 4060, to authorize, with an offset, $4,800,000 for personnel and procurement for the Oregon Army National Guard for purposes of Search and Rescue (SAR) and Medical Evacuation (MEDEVAC) missions in adverse weather conditions. **Pages S6203–07**

Levin (for Miller/Cleland) Modified Amendment No. 4077, to authorize $1,900,000 for procurement for the Marine Corps for upgrading live fire range target movers and to bring live fire range radio controls into compliance with Federal Communications Commission narrow band requirements. **Page S6207**

Withdrawn:

Hutchison Amendment No. 3928, to specify additional selection criteria for the 2005 round of defense base closures and realignments under the Defense Base Closure and Realignment Act of 1990. **Pages S6178–80**

Landrieu Amendment No. 3975, to provide for military charters between military installations and local school districts, to provide credit enhancement initiatives to promote military charter school facility acquisition, construction, and renovation. **Pages S6187–89, S6190–94**

Hutchinson Amendment No. 3922, to set aside $3,000,000 for the Clara Barton Center for Domestic Preparedness, Arkansas.

During consideration of this measure, Senate also took the following action:

By a unanimous vote of 98 yeas (Vote No. 164), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the bill. **Page S6183**

Department of Defense Authorization: Senate passed S. 2515, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, and to prescribe personnel strengths for such fiscal year for the Armed Forces, after striking all after the enacting clause and inserting in lieu thereof Division A of S. 2514, National Defense Authorization, as amended. **Page S6225**

Military Construction Authorization: Senate passed S. 2516, to authorize appropriations for fiscal year 2003 for military construction, after striking all after the enacting clause and inserting in lieu thereof Division B of S. 2514, National Defense Authorization, as amended. **Page S6225**

Department of Energy Defense Activities Authorization: Senate passed S. 2517, to authorize appropriations for fiscal year 2003 for defense activities of the Department of Energy, after striking all after the enacting clause and inserting in lieu thereof Division C of S. 2514, National Defense Authorization, as amended. **Page S6225**

Subsequently, a unanimous-consent agreement was reached with respect to further consideration of S. 2515, S. 2516, and S. 2517 (all listed above as passed by the Senate); that if the Senate receives a message from the House of Representatives with regard to any of these measures, the Senate insist on its amendment or disagree to the House amendment, and agree to or request a conference with the House thereon, and the Chair be authorized to appoint conferees on the part of the Senate. **Page S6225**

National Defense Authorization: Senate passed H.R. 4546, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, after striking all after the enacting clause and inserting in lieu thereof the text of S. 2514, Senate companion measure, as amended and passed by the Senate. **Page S6225**

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Levin, Kennedy, Byrd, Lieberman, Cleland, Landrieu, Reed, Akaka, Nelson (FL), Nelson (NE), Carnahan, Dayton, Bingaman, Warner, Thurmond, McCain, Smith, Inhofe,

Santorum, Roberts, Allard, Hutchinson, Sessions, Collins, and Bunning. **Page S6225**

Adjournment Resolution: Senate agreed to S. Con. Res. 125, providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives. **Page S6225**

Pledge of Allegiance: By a unanimous vote of 99 yeas (Vote No. 166), Senate passed S. 2690, to reaffirm the reference to one Nation under God in the Pledge of Allegiance. **Pages S6225–28**

E-Government Act: Senate passed S. 803, to enhance the management and promotion of electronic Government services and processes by establishing an Office of Electronic Government within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, after agreeing to a committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S6277–95**

Reid (for Lieberman/Thompson) Amendment No. 4172, in the nature of a substitute. **Page S6295**

National Fraud Against Senior Citizens Awareness Week: Senate agreed to S. Res. 281, designating the week beginning August 25, 2002, as "National Fraud Against Senior Citizens Awareness Week". **Pages S6295–96**

Korean Immigration: Committee on the Judiciary was discharged from further consideration of S. Res. 185, recognizing the historical significance of the 100th anniversary of Korean immigration to the United States, and the resolution was then agreed to. **Page S6296**

Nominations Confirmed: Senate confirmed the following nominations:

24 Air Force nominations in the rank of general.

13 Army nominations in the rank of general.

2 Navy nominations in the rank of admiral.

Routine lists in the Air Force, Army, Marine Corps. **Pages S6200–01**

Nominations Received: Senate received the following nominations:

Linda Ellen Watt, of Florida, to be Ambassador to the Republic of Panama.

1 Navy nomination in the rank of admiral. **Page S6200**

Messages From the House: **Page S6246**

Measures Referred: **Page S6246**

Measures Placed on Calendar: **Page S6276**

Executive Communications: **Pages S6246–49**

Executive Reports of Committees: **Page S6249**

Additional Cosponsors: **Pages S6250–52**

Statements on Introduced Bills/Resolutions: **Pages S6252–62**

Additional Statements: **Pages S6241–46**

Amendments Submitted: **Pages S6264–74**

Notices of Hearings/Meetings: **Page S6274**

Authority for Committees to Meet: **Pages S6274–75**

Privilege of the Floor: **Page S6275**

Record Votes: Three record votes were taken today. (Total—166) **Pages S6183, S6224–25, S6226–27.**

Adjournment: Senate met at 9:31 a.m., and adjourned at 5:32 p.m., until 9:30 a.m., on Friday, June 28, 2002. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S6200).

Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING

Committee on Appropriations: Committee ordered favorably reported the following bills:

An original bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003; and

An original bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003.

Also, committee approved subcommittee allocations for fiscal year 2003.

NOMINATIONS

Committee on Armed Services: Committee ordered favorably reported the nomination of Gen. Ralph E. Eberhart, USAF, for reappointment to the grade of general and to be Commander in Chief, United States Northern Command/Commander, North American Aerospace Defense Command, and 1,607 routine military nominations in the Army, Navy, Air Force, and Marine Corps.

SENIOR HOUSING AND HEALTH FACILITY NEEDS

Committee on Banking, Housing, and Urban Affairs: Committee concluded oversight hearings to examine the preliminary findings of the Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century, after receiving testimony from Ellen Feingold, Jewish Community Housing for the Elderly, Brighton, Massachusetts, and John

C. Erickson, Erickson Retirement Community, Baltimore, Maryland, both on behalf of the Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century.

BORDER OPERATIONS

Committee on Appropriations Subcommittee on Transportation/Committee on Commerce, Science, and Transportation Subcommittee on Surface Transportation and Merchant Marine: Subcommittees concluded joint hearings to examine cross border trucking issues, focusing on the implementation of commercial vehicle safety requirements at the U.S.-Mexico border, after receiving testimony from Norman Y. Mineta, Secretary, Kenneth M. Mead, Inspector General, and Joe Clapp, Administrator, Federal Motor Carrier Safety Administration, all of the Department of Transportation.

BUSINESS MEETING

Committee on Environment and Public Works: Committee ordered favorably reported the following bills:

S. 351, to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting use of mercury fever thermometers and improving collection, recycling, and disposal of mercury, with an amendment in the nature of a substitute;

S. 556, to amend the Clean Air Act to reduce emissions from electric powerplants, with an amendment in the nature of a substitute;

S. 2664, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction, with amendments.

H.R. 3322, to authorize the Secretary of the Interior to construct an education and administrative center at the Bear River Migratory Bird Refuge in Box Elder County, Utah; and

H.R. 3958, to provide a mechanism for the settlement of claims of the State of Utah regarding portions of the Bear River Migratory Bird Refuge located on the shore of the Great Salt Lake, Utah.

HUMAN RIGHTS IN CENTRAL ASIA

Committee on Foreign Relations: Subcommittee on Central Asia and the South Caucasus concluded hearings to examine the balancing of military assistance and support for human rights in central Asia for the purpose of ensuring stability, security, and prosperity in the region, after receiving testimony from Lorne W. Craner, Assistant Secretary for Democracy, Human Rights, and Labor Bureau, and B. Lynn Pascoe, Deputy Assistant Secretary for Central Asia, both of the Department of State; J. D. Crouch II, Assistant Secretary of Defense for International Security Policy; and William H. Courtney, DynCorp, former Ambassador to Kazakhstan and Georgia, and former Senior Advisor to the National Security Council, and Martha Brill Olcott, Carnegie Endowment for International Peace, both of Washington, D.C.

DEPARTMENT OF HOMELAND SECURITY AND INTELLIGENCE COMMUNITY

Committee on Governmental Affairs: Committee concluded hearings to examine the relationship between a future Department of Homeland Security and the current federal, state, and local intelligence communities, after receiving testimony from Senators Graham and Shelby; Robert S. Mueller III, Director, Federal Bureau of Investigation, Department of Justice; George J. Tenet, Director, Central Intelligence Agency; and William H. Webster, former Director of Federal Bureau of Investigation, Department of Justice, and Director of Central Intelligence Agency.

TITLE IX

Committee on Health, Education, Labor, and Pensions: Committee held hearings to examine the implementation and progress of Title IX of the Education Amendments Act of 1972, which prohibits sex discrimination in all aspects of education, receiving testimony from former Senator Birch Bayh; Roderick Paige, Secretary of Education; Nancy Hogshead-Makar, Florida Coastal School of Law, Jacksonville; and Arthur L. Coleman, Nixon Peabody, Washington, D.C.

Hearings recessed subject to call.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 2134, to allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states, with an amendment in the nature of a substitute;

S. 2633, to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlled substance;

S. 1339, to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, with an amendment;

S. Res. 281, designating the week beginning August 25, 2002, as "National Fraud Against Senior Citizens Awareness Week";

S. Res. 284, expressing support for "National Night Out" and requesting that the President make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration; and

The nomination of Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit.

NOMINATIONS

Committee on the Judiciary: Committee concluded hearings on the nominations of Dennis W. Shedd, of South Carolina, to be United States Circuit Judge for the Fourth Circuit, Terrence F. McVerry, to be United States District Judge for the Western District of Pennsylvania, and Arthur J. Schwab, to be United States District Judge for the Western District of Pennsylvania, after the nominees testified and answered questions in their own behalf. Mr. Shedd was introduced by Senators Thurmond and Hollings, and Representative Wilson, and Mr. McVerry and Mr. Schwab were introduced by Senators Specter, Santorum, and Representative Hart.

House of Representatives

Chamber Action

Measures Introduced: 31 public bills, H.R. 5031–5061; and 8 resolutions, H.J. Res. 103–104; H. Con. Res. 432–434, and H. Res. 467–469 were introduced. **Pages H4324–25**

Reports Filed: No Reports were filed today.

Guest Chaplain: The prayer was offered by the guest Chaplain, Chaplain Frederick J. Huscher, Riverside County Sheriff's Department of Riverside, California. **Page H4071**

Journal: Agreed to the Speaker's approval of the Journal of Wednesday, June 26 by a recorded vote of 348 yeas to 59 nays with 1 voting "present," Roll No. 267. **Pages H4071–72**

Motions to Adjourn: Rejected the McNulty motion to adjourn by a recorded vote of 70 ayes to 332 noes, Roll No. 268. **Pages H4072–73**

Department of Defense Appropriations: The House passed H.R. 5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003 by a yea-and-nay vote of 413 yeas to 18 nays, Roll No. 270.

Pages H4076–H4110, H4111–19

Agreed To:

Spratt amendment that reduces funding for the space based kinetic energy boost program by $30 million and increases funding for the airborne laser program accordingly; **Pages H4111–13**

Kucinich amendment that withholds 1 percent of funding from certain Department of Defense components until the DOD Inspector General submits an audit of these components pursuant to section 3521(e) of title 31, United States; and

Pages H4113–17

Collins of Georgia amendment that prohibits the use of any funds to relocate the headquarters of the United States Army, South, from Fort Buchanan, Puerto Rico, to a location in the continental United States. **Pages H4117–18**

Rejected:

Tierney amendment that sought to delete funding of $44.4 million for the space based kinetic energy boost program; and **Pages H4106–09**

Tierney amendment that sought to delete funding of $121.8 million for missile silos at Fort Greeley, Alaska (rejected by a recorded vote of 112 ayes to 314 noes, Roll No. 269). **Page H4118**

Point of Order Sustained Against:

Kucinich amendment that sought to withhold 1 percent of funding from certain Department of Defense components until the DOD Inspector General expresses an opinion on the audited financial statements of that component; **Pages H4109–10, H4113.**

H. Res. 461, the rule that provided for consideration of the bill was agreed to by voice vote.

Page H4076

Suspensions: The House agreed to suspend the rules and pass the following measures that were debated on June 25:

Patriotic Contributions of Roofing Professionals Who Replaced, At No Cost, the Pentagon's Slate Roof Destroyed on September 11: H. Con. Res. 424, commending the patriotic contributions of the roofing professionals who replaced, at no cost to the Federal Government, the section of the Pentagon's slate roof that was destroyed as a result of the terrorist attacks against the United States that occurred on September 11, 2001 (agreed to by a yea-and-nay vote of 428 yeas with none voting "nay," Roll No. 271); and **Pages H4119–20**

Frank Sinatra Post Office, Hoboken, New Jersey: H.R. 3034, to redesignate the facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, as the "Frank Sinatra Post Office Building;" (agreed to by a yea-and-

nay vote of 427 yeas with none voting "nay," Roll No. 272). **Pages H4120–21**

Urging the Ninth Circuit Court of Appeals to Rehear Their Erroneous Ruling That the Pledge of Allegiance is an Unconstitutional Endorsement of Religion: The House agreed to suspend the rules and agreed to H. Res. 459, expressing the sense of the House of Representatives that Newdow v. U.S. Congress was erroneously decided by a yea-and-nay vote of 416 yeas to 3 nays with 11 voting "present," Roll No. 273. **Pages H4125–36**

Earlier, agreed to H. Res. 463, the rule that provided for consideration of the motion to suspend the rules by voice vote. **Pages H4121–25**

Military Construction Appropriations: The House passed H.R. 5011, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003 by a yea-and-nay vote of 426 yeas to 1 nay, Roll No. 277. **Pages H4136–54**

Agreed To:

Collins of Georgia amendment that prohibits the use of any funds to relocate the headquarters of the United States Army, South, from Fort Buchanan, Puerto Rico, to a location in the continental United States. **Page H4153**

The House agreed to H. Res. 462, the rule that provided for consideration of H.R. 5011 and S. 2578 by a yea-and-nay vote of 269 yeas to 160 nays, Roll No. 276. Agreed to the Myrick amendment that made it in order, upon adoption of the rule and without the intervention of any point of order, to consider in the House, S. 2578, to amend title 31 of the United States code to increase the public debt limit, by a recorded vote of 219 ayes to 211 noes, Roll No. 275. Earlier, agreed to order the previous question on the amendment and the rule by a yea-and-nay vote of 221 yeas to 210 nays, Roll No. 274. Pursuant to section 2 of the rule, H. Res. 421 was laid on the table. **Pages H4141–43**

Debt Limit Increase: The House passed S. 2578, to amend title 31 of the United States Code to increase the public debt limit by a recorded vote of 215 ayes to 214 noes with 1 voting "present", Roll No. 279—clearing the measure for the President. **Pages H4154–66**

Rejected the Moore motion to commit the bill to the Committee on Ways and Means with instructions to report it back forthwith with an amendment in the nature of a substitute that increases the debt limit by $150 billion by a yea-and-nay vote of 207 yeas to 222 nays, Roll No. 278. **Pages H4165–66**

The bill was considered pursuant to the provisions of H. Res. 462, as amended. **Page H4164**

Medicare Modernization and Prescription Drug Act: The House passed H.R. 4954, to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program and to modernize and reform payments and the regulatory structure of the Medicare Program by a recorded vote of 221 ayes to 208 noes, Roll No. 282. **Pages H4166–S4320**

Rejected the Gephardt motion to recommit the bill jointly to the Committees on Ways and Means and Energy and Commerce with instructions to report it back promptly with an amendment in the nature of a substitute that establishes the Medicare Prescription Drug Benefit and Discount Act by a recorded vote of 204 ayes to 223 noes, Roll No. 281. **Pages H4297–H4320**

Pursuant to the rule, in lieu of the amendment recommended by the Committee on Ways and Means, the amendment in the nature of a substitute printed in H. Rept. 107–552 was considered as adopted. **Page H4297**

Agreed to H. Res. 465, the rule that provided for consideration of the bill by a yea-and-nay vote of 218 yeas to 213 nays, Roll No. 280. **Pages H4181–82**

Support of American Eagle Silver Bullion Program: The House passed S. 2594, to authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins—clearing the measure for the President. **Pages H4320–21**

Fourth of July District Work Period: The House agreed to S. Con. Res. 125, providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives. **Page H4321**

Meeting Hour—Tuesday, July 9: Agreed that when the House adjourns on Monday, July 8, it adjourn to meet at 10:30 a.m. on Tuesday, July 9, for morning-hour debate. **Page H4321**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, July 10, 2002. **Pages H4321–22**

Resignations—Appointments: Agreed that notwithstanding any adjournment of the House until Monday, July 8, the Speaker, Majority Leader and Minority Leader be authorized to accept resignations and make appointments authorized by law or by the House. **Page H4322**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Gilchrest or, if not available to perform this duty, Representative Tom Davis of Virginia to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 8. **Page H4322**

Senate Messages: Messages received from the Senate appear on pages H4072, H4154.

Referrals: S. 1041 was referred to the Committees on Energy and Commerce and Education and the Workforce. S. 1646 was referred to the Committee on Transportation and Infrastructure. S. 2690 was referred to the Committee on the Judiciary. S. 1754 and S. Con. Res. 125 were held at the desk.

Page H4322

Quorum Calls—Votes: Ten yea-and-nay votes and seven recorded votes developed during the proceedings of the House today and appear on pages H4071–72, H4072–73, H4118, H4119, H4119–20, H4120–21, H4135–36, H4141–42, H4142–43, H4143, H4154, H5165–66, H4166, H4181–82, H4319–20, and H4320. There were no quorum calls.

Adjournment: The House met at 10 a.m. and at 2:38 a.m. on Friday, June 28, pursuant to the provisions of S. Con. Res. 125, the House stands adjourned until 2 p.m. on Monday, July 8, 2002.

Committee Meetings

NATIONAL FORESTS—ROADLESS AREAS

Committee on Agriculture: Subcommittee on Department Operations, Oversight, Nutrition and Forestry held a hearing on Roadless areas in our National Forests. Testimony was heard from Mark E. Rey, Under Secretary, Natural Resources and the Environment, USDA; and public witnesses.

PROPOSED MILLENNIUM CHALLENGE

Committee on Appropriations: Subcommittee on Foreign Operations, Export Financing and Related Programs held a hearing on the President's proposed Millennium Challenge. Testimony was heard from public witnesses.

LEGISLATIVE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Legislative approved for full Committee action the Legislative appropriations for fiscal year 2003.

MISSILE DEFENSE

Committee on Armed Services: Subcommittee on Military Procurement and the Subcommittee on Military Research and Development held a joint hearing on missile defense. Testimony was heard from the following officials of the Department of Defense: Paul Wolfowitz, Deputy Secretary; Lt. Gen. Ronald T. Kadish, USAF, Director, Missile Defense Agency; and Thomas P. Christie, Director, Operational Test and Evaluation.

UNION REPORTING AND DISCLOSURE

Committee on Education and the Workforce: Subcommittee on Employer-Employee Relations held a hearing on Union Reporting and Disclosure: Legislative Reform Proposals. Testimony was heard from public witnesses.

CONSUMER RENTAL AGREEMENT ACT; WORLDCOM SUBPOENAS

Committee on Financial Services: Ordered reported, as amended, H.R. 1701, Consumer Rental Agreement Act.

In regard to the alleged fraud in WorldCom Inc., financial statements, the Committee adopted a motion to subpoena the following WorldCom executives: Bernard J. Ebbers, former President and CEO; John W. Sidgmore, current President and CEO of WorldCom; and Scott Sullivan, former CFO of WorldCom; and Jack Grubman, a telecommunications analyst at Salomon Smith Barney.

AFRICA—PROMOTING ECONOMIC DEVELOPMENT

Committee on International Relations: Held a hearing on Promoting Economic Development in Africa Through Accountability and Good Governance. Testimony was heard from Paul H. O'Neill, Secretary of the Treasury.

OVERSIGHT—UNPUBLISHED JUDICIAL OPINIONS

Committee on the Judiciary: Subcommittee on Courts, the Internet, and Intellectual Property held an oversight hearing on "Unpublished Judicial Opinions." Testimony was heard from Ales Kozinski, Judge, U.S. Court of Appeals, Ninth Circuit; Samuel A. Alito, Jr., Judge, U.S. Court of Appeals, Third Circuit and Chair, Advisory Committee on the Federal Rules of Appellate Procedure; and public witnesses.

HOMELAND SECURITY ACT—ROLE OF IMMIGRATION

Committee on the Judiciary: Subcommittee on Immigration, Border Security, and Claims held an oversight hearing on "The Role of Immigration in the Department of Homeland Security pursuant to H.R. 5005, Homeland Security Act of 2002." Testimony was heard from Grant S. Green, Under Secretary, Management and Resources, Department of State; and public witnesses.

MISCELLANEOUS MEASURE; OVERSIGHT—CORAL REEF CONSERVATION ACT

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Ocean's approved for full Committee action H. Con. Res. 419, requesting the President to issue a proclamation in observance of

the 100th Anniversary of the founding of the International Association of Fish and Wildlife Agencies.

The Subcommittee also held an oversight hearing on the Coral Reef Conservation Act of 2000, Executive Order 13089, and the oceanic conditions contributing to coral reef decline. Testimony was heard from Craig Manson, Assistant Secretary, Fish, Wildlife and Parks, Department of the Interior; Timothy R. E. Keeney, Deputy Assistant Secretary, Oceans and Atmosphere, NOAA, Department of Commerce; and public witnesses.

LAND CONVEYANCE

Committee on Resources: Subcommittee on National Parks, Recreation and Public Lands held a hearing on H.R. 4968, to provide for the exchange of certain lands in the State of Utah. Testimony was heard from Representative Matheson; Tom Fulton, Deputy Assistant Secretary, Land and Minerals, Department of the Interior; and public witnesses.

HOMELAND SECURITY ACT

Committee on Science: Held a hearing on H.R. 5005, Homeland Security Act. Testimony was heard from John H. Marburger III, Director, Office of Science and Technology Policy; Raymond L. Orbach, Director, Office of Science, Department of Energy; and John S. Tritak, Director, Critical Infrastructure Assurance Office, Bureau of Industry and Security, Department of Commerce.

IMPROVING HIGHWAY SAFETY

Committee on Transportation and Infrastructure: Subcommittee on Highways and Transit held a hearing on various approaches to Improving Highway Safety. Testimony was heard from the following officials of the Department of Transportation: Jeff Runge, Administrator, National Highway Traffic Safety Administration; and Frederick G. Wright, Jr., Executive Director, Federal Highway Administration; and public witnesses.

HOMELAND SECURITY DEPARTMENT

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on Creation of the Department of Homeland Security. Testimony was heard from departmental witnesses.

COMMITTEE MEETINGS FOR FRIDAY, JUNE 28, 2002

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Governmental Affairs: to hold hearings to examine how the proposed Department of Homeland Security should address weapons of mass destruction, and relevant science and technology, research and development, and public health issues, 9:30 a.m., SD–342.

Committee on Health, Education, Labor, and Pensions: to hold hearings on S. 2246, to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, 9:30 a.m., SD–430.

House

Committee on Armed Services, Special Oversight Panel on Terrorism, hearing on Navy and Marine Corps initiatives to improve anti- and counter-terrorism operations, 8:30 a.m., 2212 Rayburn.

Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, to mark up H.R. 4561, Federal Agency Protection of Privacy Act, 10 a.m., 2141 Rayburn.

Subcommittee on Immigration, Border Security, and Claims, hearing on H.R. 5017, to amend the Temporary Emergency Wildlife Suppression Act to facilitate the ability of the Secretary of the Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight wildfires, 11 a.m., 2237 Rayburn.

Next Meeting of the SENATE

9:30 a.m., Friday, June 28

Senate Chamber

Program for Friday: Senate will be in a period of morning business.

Next Meeting of the HOUSE OF REPRESENTATIVES

2 p.m., Monday, July 8

House Chamber

Program for Monday: To be announced.

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