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House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. CULBERSON).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 15, 2002.

I hereby appoint the Honorable JOHN ABNEY CULBERSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2069. An act to amend the Foreign Assistance Act of 1961 and the Global AIDS and Tuberculosis Relief Act of 2000 to authorize assistance to prevent, treat, and monitor HIV/AIDS in sub-Saharan Africa and other developing countries.

The message also announced that the Senate has passed without amendment in which the concurrence of the House is requested, concurrent resolutions of the House of the following titles:

H. Con. Res. 161. Concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers military housing compound in Dhahran, Saudi Arabia, on June 25, 1996.

H. Con. Res. 378. Concurrent resolution commending the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire Congressional community in response to the terrorist and anthrax attacks of September and October 2001.

The message also announced that the Senate disagrees to the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 3009) ''An Act to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.'', and agrees to a conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAUCUS, Mr. ROCKEFELLER, Mr. BREAUX, Mr. GRASSLEY, and Mr. HATCH, to be the conferees on the part of the Senate.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. WELLER) for 5 minutes.

URGING MEMBERS TO JOIN IN OPPOSITION TO H.R. 3479, LEGISLATION WHICH EXPANDS O'HARE AIRPORT BUT EXCLUDES FUNDING FOR PEOTONE AIRPORT

Mr. WELLER. Mr. Speaker, today is the first day we are in session in the week. Usually on the first day we deal with noncontroversial issues, something called the Suspension Calendar.

It is my understanding we have almost 15 pieces of legislation before us today on what is normally a noncontroversial day. But I want to draw the attention of my colleagues to a very controversial piece of legislation that is on the Suspension Calendar, and I want to ask my colleagues to join me in opposition to this legislation, legislation which, frankly, breaks a bipartisan agreement back in my home State in Illinois.

I am referring to H.R. 3479, legislation that is before us that we in the Chicago area know as the O'Hare bill, legislation that federally mandates construction of O'Hare and expansion of O'Hare. I want to ask my colleagues to join me today in opposition to this legislation.

Let me explain why. I stand here in strong support of O'Hare. I stand in strong support of Midway. I also believe we need to build a third airport to serve the Chicago region. As we know, air travel is going to double over the coming decade, and O'Hare and Midway in the Chicago area are today at capacity. We need to rebuild and modernize O'Hare, but we also need to build a third airport in south suburban Peotone to serve the Chicago region.

This past year, Governor Ryan and Mayor Daley entered into a historic agreement which provided for the reconfiguration and expansion of O'Hare, as well as development of Chicago's south suburban airport near Peotone, Illinois. My colleague, the gentleman from Illinois (Mr. LIPINSKI), introduced legislation which originally would have codified this agreement into law, modernizing O'Hare, and pushing development of a south suburban airport.

I had originally stood here and stated time after time that I wanted to support this legislation and that I was ready to cosponsor the bill if it truly reflected the integrity of the agreement between the Governor and the mayor.

However, this legislation, H.R. 3479, which will be before us this afternoon, does not reflect the agreement between the Governor and the mayor. In fact, the Governor has indicated he does not support the bill today in its current form. That is why I think it is important to note that H.R. 3479 breaks the bipartisan agreement between Governor Ryan and Mayor Daley on

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O'Hare. That is why I ask my colleagues to join me in opposition to this bill today.

My hope is that the Committee on Transportation and Infrastructure will go back and move legislation again, and bring it back to the floor, which truly reflects the bipartisan agreement which expands O'Hare as well as moves forward on construction of an airport at Peotone.

Mr. Speaker, this legislation, as I noticed, breaks the agreement between the mayor and the Governor. I would note that the legislation, H.R. 3479, has no language in it which reflects the agreement that the Governor and mayor agreed to, which moves forward with the construction of a third airport at Peotone.

The legislation takes away the State of Illinois's rights and undercuts the authority of the State of Illinois to make its own decisions regarding air travel.

H.R. 3479 completely ignores the needs of the south suburbs of Chicago, where 2.5 million people live within 45 minutes of the proposed airport at Peotone. Additionally, I would note that failure to develop Peotone would shortchange the entire Chicago region by forfeiting almost 250,000 new jobs.

Unfortunately, H.R. 3479 does not pay any heed to the studies that have, since the 1980s, consistently shown that Chicago, the region, and our Nation will have aviation gridlock, and the best solution is a new airport, a third airport to serve the Chicago region. Both the Governor and mayor recognized these studies when they reached their agreement last year.

I would note that the bill that will be before us today breaks the agreement between the mayor and the Governor and does not reflect the integrity of the agreement. Nevertheless, the bill imposes a Federal solution on a State problem and does not have the full support of the Illinois delegation nor the people of Illinois, who will be most impacted by the legislation.

In fact, the three members of the Illinois delegation most affected by H.R. 3479, the gentlemen from Illinois, Mr. HYDE, Mr. JACKSON, and myself, stand in opposition to this bill this afternoon.

I support Chicago-O'Hare and believe it needs to be expanded and modernized to be a safer airport with more capacity, but expanding O'Hare is not enough. It will not solve the capacity problem or face it in the future. Even with the development of a south suburban airport, O'Hare can still expect a 40 percent increase in passenger load, so they are still going to increase their business.

Air travel is expected to double in the next 15 years. Expanding O'Hare will take 12 to 15 years, and we know we cannot land airplanes while pouring concrete. The south suburban airport at Peotone could be expanding capacity in just 4 to 5 years as a complement to O'Hare expansion. However, this legislation will kill any development of a south suburban airport and keep Chicago aviation gridlocked for years to come.

Mr. Speaker, we need a bipartisan solution. The mayor and the Governor came together with an agreement. The bill before us today, H.R. 3479, fails to honor that agreement; in fact, it breaks the agreement between the mayor and the Governor.

I urge opposition to this bill and ask that my colleagues join me in voting ''no.''

CORPORATE GREED

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, it has been almost a week since President Bush went to Wall Street to present his plan to curb executive greed and corporate misgovernance. The response, unfortunately, has been pretty underwhelming. The markets dropped by several hundred points day after day after day. The press and the American people have openly questioned the President's commitment to real change.

Even Wall Street workers who attended the speech, mostly Bush supporters, wondered aloud about how much of the speech was just politics and how much was about real change.

Why was this speech so poorly received? One, because so many officials in the Bush administration are themselves former corporate CEOs, lawyers, and accountants who lack the moral authority or the will to change corporate practices, or even to enforce current law.

Second, because in the middle of the current crisis, the President and the Vice President, both former oil company CEOs, have been forced to answer questions about their own ethics and business practices in the private sector.

Third, because, despite his rhetorical calls for corporate America to clean up its act, President Bush continues to oppose real reform on Capitol Hill. He has refused to support meaningful pension and accounting reform; he opposes legislation to halt offshore tax avoidance by huge corporations; and, to make matters worse, even though America's capital markets lost $2.4 trillion last year, more than the gross domestic product of Germany, the President continues to favor turning Social Security over to Wall Street in a privatization scheme. This is the same Wall Street that advised American investors to buy Enron and WorldCom and Adelphia and others while their analysts privately ridiculed those companies.

In addition, the President has supported a whole slew of bills that have been written by and for big industry. He supports energy legislation written by the oil companies, he supports environmental legislation written by the chemical companies, he supports privatization of Social Security written by Wall Street bankers.

Most recently, the President endorsed a prescription drug benefit to be administered by the health insurance industry, the same people who brought us HMOs. This plan would provide seniors with totally inadequate coverage, making no provision for dealing with the outrageous prices Americans are paying for their prescription drugs. It would undercut seniors' purchasing power and enable the drug industry to sustain its outrageous drug prices.

Apparently, the President has been convinced by the brand-name big drug companies that prices are not a problem. Democrats are more concerned about the burden on seniors and their families who are being gouged by the predatory pricing of the prescription drug industry. The Democratic plan provides a direct prescription drug benefit inside Medicare and combats high prescription drug prices. The Republican plan, written by the drug companies, calls for a privatized system that coddles industry and leaves gaps in coverage for seniors.

The Republicans claim they are offering the best drug benefit possible under current budgetary constraints; but a year ago, when the Bush tax cut plan, the tax breaks, which went overwhelmingly to the richest 1 percent of people in this society, when that was being debated, we were assured by the President and Republican leadership of huge budget surpluses. We were told these surpluses would be enough to address long-term solvency of Medicare and Social Security and still have the money for education and the money for a prescription drug benefit. Since then, these projected surpluses promised by President Bush and others have evaporated, mostly because of the overly-generous-to-the-most-privileged-in-this-society tax cut.

Maybe the President and his administration, full of corporate executives, were using the same accounting practices as America's big companies. Maybe, Mr. Speaker, this is what President Bush and Vice President CHENEY meant when they said that, under their leadership, the country would be run like a corporation.

HONORING TED WILLIAMS

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, today we will honor Ted Williams, the baseball legend, here on the House floor. I am here this morning to also honor him.

On July 5, of course, of this year, he died. He is one of baseball's greatest legends. He was known as the ''Splendid Splinter,'' ''Teddy Ballgame,'' ''the Kid,'' ''the Thumper''; he was a man

who turned the art of batting into a science.

Mr. Speaker, he began his major league career with the Boston Red Sox on December 7, 1937, and played for the team exclusively for 19 years. He retired with a career high .344 batting average, and was, of course, the last player to hit over 400 for a full season in 1941. Ted Williams is tied for 11th all time, with 521 home runs, and 11th with 1,839 RBIs.

He won two Triple Crowns, and was a two-time MVP. He held six American League batting championships and received 18 All-star game selections.

These tremendous achievements, Mr. Speaker, were reached despite Ted missing five seasons serving his country as a naval aviator in World War II, and then later he went on to become a Marine aviator, flying 39 combat missions in Korea and earning an Air Medal and two Gold Stars.

On January 20, 1966, Ted Williams was inducted into the Baseball Hall of Fame, and on May 29, 1984, the Red Sox formally retired his number 9.

In 1994, the so-called ''Einstein of batting'' opened the Ted Williams Museum and Library in Hernando, Florida, becoming the number one tourist attraction in Citrus County. My family has had the opportunity to visit this wonderful museum, and I was his Congressman for many years. We had an opportunity to meet and talk with him many times.

But Mr. Speaker, Ted Williams was much more to his country than just a baseball legend.

□ 1245

He was also a legend in terms of helping others. When I first came to Congress, Ted Williams, as I mentioned, was one of my constituents. Unfortunately, districts were redrawn in 1991 and I moved away from him. However, I continued to work with him and to speak with him on a number of key issues. And one issue, Mr. Speaker, I would like to share with you this afternoon.

In 1995 he was recovering from a stroke that he suffered. During his therapy he came to know a young woman whose name was Tricia Miranti. She was also going through therapy much like him, and he used to play checkers with her and talk to her. She had a brain hemorrhage which she suffered at the age of five. Ted Williams is a man who exemplified determination and hard work. He was impressed with her determination and her hard work and he watched her go through therapy. They became fast friends and out of their friendship grew Williams' creation of a scholarship fund for disabled students.

In 1997 I had the honor of working with Ted to raise funds for that scholarship program. Ted's dedication to Tricia and those who share her experiences can be summed up in the following quote he gave to an article in 1998. He said, ''It makes me feel lucky. If ever, as long as I live, I can help anyone in any way possible, I will. It makes you just feel great.''

This statement, of course, is no surprise to those who knew Ted. His passionate support of the Jimmy Fund, an organization dedicated to raising funds for cancer research and treatment for children, is also legend. In his autobiography Ted wrote, ''I think one of the greatest things ever said is that a man never stands so high as when he stoops to help a kid.''

Mr. Speaker, Ted Williams is one of the greatest hitters to ever play the game, if not the greatest. But he should also be remembered for what he accomplished outside of the game, accomplishments that we will not find in career statistics, but the impact of which will be felt for years to come. God bless Ted Williams and his family.

RECESS

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 48 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CULBERSON) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, You are wisdom for the ages and strength in times of weakness, renew Your people in faith and by our prayer wash us clean in Your Holy Spirit.

Guide the Members of Congress during this week. Bring forth from their diversity a unity of purpose. Born out of honest exchange and compromise, let there emerge great leadership for Your people.

Through the power of Your own Spirit work through them and in them.

By works in the mind provide new understanding and by works in the heart bring about freedom and unity, enough to hold a Nation, now and forever. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Wisconsin (Mr. SENSENBRENNER) come forward and lead the House in the Pledge of Allegiance.

Mr. SENSENBRENNER led the Pledge of Allegiance as follows:

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

COMMUNICATION FROM DISTRICT DIRECTOR OF HON. SHERROD BROWN OF OHIO, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Elizabeth Thames, District Director to the Honorable SHERROD BROWN of Ohio, Member of Congress:

JULY 8, 2002.

Hon. DENNIS J. HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House, that I have been served with a civil subpoena for testimony issued by the Geauga County Court of Common Pleas, Chardon, Ohio.

After consultation with the Office of General Counsel, I determined that it is inconsistent with the precedents and privileges of the House to comply with the subpoena.

Sincerely,

ELIZABETH THAMES,
District Director.

COMMUNICATION FROM THE HON. SHERROD BROWN OF OHIO, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the HONORABLE SHERROD BROWN of Ohio, Member of Congress:

JULY 8, 2002.

Hon. DENNIS J. HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House, that I have been served with a civil subpoena for testimony issued by the Geauga County Court of Common Pleas, Chardon, Ohio.

After consultation with the Office of General Counsel, I determined that it is inconsistent with the precedents and privileges to the House to comply with the subpoena.

Sincerely,

SHERROD BROWN,
Member of Congress.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 12, 2002.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on

Friday, July 12, 2002 at 1:21 p.m., and said to contain a message from the President whereby he transmits the District of Columbia's Fiscal Year 2003 Budget Request Act.

Sincerely yours,

MARTHA C. MORRISON,
Deputy Clerk.

DISTRICT OF COLUMBIA FISCAL YEAR 2003 BUDGET REQUEST ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

Pursuant to my constitutional authority and consistent with sections 202(c) and (e) of the The District of Columbia Financial Management and Responsibility Assistance Act of 1995 and section 446 of The District of Columbia Self-Governmental Reorganization Act as amended in 1989, I am transmitting the District of Columbia's Fiscal Year 2003 Budget Request Act.

The proposed FY 2003 Budget Request Act reflects the major programmatic objectives of the Mayor and the Council of the District of Columbia. For FY 2003, the District estimates total revenue and expenditures of $5.7 billion.

GEORGE W. BUSH.

THE WHITE HOUSE, July 11, 2002.

REMEMBERING OUR VETERANS THROUGH SERVICE ORGANIZATIONS

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

Mr. GEKAS. Mr. Speaker, 1941 was a banner year for American baseball and baseball in the American League, as it were. In that year Joe DiMaggio hit in 56 games straight, and Ted Williams batted 406. These are not the important historical facts, although they are great for those of us who follow baseball, but both of them did something extraordinary. Joe DiMaggio, very soon after that wonderful streak, entered the United States Army and served until 1946 as a noncommissioned officer in the United States Army. Ted Williams went into the Air Force, or Army, and served the balance of the war in his branch of the service.

Then dramatically twice after that, Ted Williams reported back for duty and served in the Korean conflict. These are the great Americans that we remember and we will continue to remember through the service organizations which we will discuss a little bit later.

CORPORATE GREED

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

Mr. BROWN of Ohio. Mr. Speaker, this morning in Birmingham, President Bush gave another speech aimed at restoring investor confidence at the same time the country's equity markets were well on their way to a sixth day of losses. Why is that?

Could it be because so many administration officials in the Bush White House are themselves former corporate CEOs, lawyers, or accountants who lack the moral authority or the will to change corporate practices, or even to enforce current law? Or could it be because in the middle of the current financial crisis, the President and the Vice President have been forced to answer questions about their own ethics and business practices as oil company CEOs? Or could it be, because despite his rhetorical calls for corporate America to clean up its act, the President continues to oppose real reform on Capitol Hill?

Maybe, Mr. Speaker, with the recent spate of corporate collapses, the American people have begun to wonder whether running the company like a corporation, as the President and Vice President have promised, is all that good an idea.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on motions to suspend the rules ordered prior to 6:30 p.m. will be taken today. Record votes on remaining motions to suspend the rules will be taken tomorrow.

CYBER SECURITY ENHANCEMENT ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3482) to provide greater cybersecurity, as amended.

The Clerk read as follows:

H.R. 3482

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 ''Cyber Security Enhancement Act of 2002''.

TITLE I—COMPUTER CRIME

SEC. 101. AMENDMENT OF SENTENCING GUIDELINES RELATING TO CERTAIN COMPUTER CRIMES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 1030 of title 18, United States Code.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in subsection (a), the growing incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the following factors and the extent to which the guidelines may or may not account for them—

(A) the potential and actual loss resulting from the offense;

(B) the level of sophistication and planning involved in the offense;

(C) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(D) whether the defendant acted with malicious intent to cause harm in committing the offense;

(E) the extent to which the offense violated the privacy rights of individuals harmed;

(F) whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice;

(G) whether the violation was intended to or had the effect of significantly interfering with or disrupting a critical infrastructure; and

(H) whether the violation was intended to or had the effect of creating a threat to public health or safety, or injury to any person;

(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 101A. STUDY AND REPORT ON COMPUTER CRIMES.

Not later than May 1, 2003, the United States Sentencing Commission shall submit a brief report to Congress that explains any actions taken by the Sentencing Commission in response to this Act and includes any recommendations the Commission may have regarding statutory penalties for offenses under section 1030 of title 18, United States Code.

SEC. 102. EMERGENCY DISCLOSURE EXCEPTION.

(a) IN GENERAL.—Section 2702(b) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (5);

(2) by striking subparagraph (C) of paragraph (6);

(3) in paragraph (6), by inserting ''or'' at the end of subparagraph (A); and

(4) by inserting after paragraph (6) the following:

''(7) to a Federal, State, or local governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.''.

(b) REPORTING OF DISCLOSURES.—A government entity that receives a disclosure under this section shall file, no later than 90 days after such disclosure, a report to the Attorney General stating the subparagraph under which the disclosure was made, the date of the disclosure, the entity to which the disclosure was made, the number of customers or subscribers to whom the information disclosed pertained, and the number of communications, if any, that were disclosed. The

Attorney General shall publish all such reports into a single report to be submitted to Congress one year after enactment of the bill.

SEC. 103. GOOD FAITH EXCEPTION.

Section 2520(d)(3) of title 18, United States Code, is amended by inserting ''or 2511(2)(i)'' after ''2511(3)''.

SEC. 104. INTERNET ADVERTISING OF ILLEGAL DEVICES.

Section 2512(1)(c) of title 18, United States Code, is amended—

(1) by inserting ''or disseminates by electronic means'' after ''or other publication''; and

(2) by inserting ''knowing the content of the advertisement and'' before ''knowing or having reason to know''.

SEC. 105. STRENGTHENING PENALTIES.

Section 1030(c) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) in each of subparagraphs (A) and (C) of paragraph (4), by inserting ''except as provided in paragraph (5),'' before ''a fine under this title'';

(3) by striking the period at the end of paragraph (4)(C) and inserting ''; and''; and

(4) by adding at the end the following:

''(5)(A) if the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for not more than 20 years, or both; and

''(B) if the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for any term of years or for life, or both.''.

SEC. 106. PROVIDER ASSISTANCE.

(a) SECTION 2703.—Section 2703(e) of title 18, United States Code, is amended by inserting '', statutory authorization'' after ''subpoena''.

(b) SECTION 2511.—Section 2511(2)(a)(ii) of title 18, United States Code, is amended by inserting '', statutory authorization,'' after ''court order'' the last place it appears.

SEC. 107. EMERGENCIES.

Section 3125(a)(1) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by striking the comma at the end of subparagraph (B) and inserting a semicolon; and

(3) by adding at the end the following:

''(C) an immediate threat to a national security interest; or

''(D) an ongoing attack on a protected computer (as defined in section 1030) that constitutes a crime punishable by a term of imprisonment greater than one year;''.

SEC. 108. PROTECTING PRIVACY.

(a) SECTION 2511.—Section 2511(4) of title 18, United States Code, is amended—

(1) by striking paragraph (b); and

(2) by redesignating paragraph (c) as paragraph (b).

(b) SECTION 2701.—Section 2701(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting '', or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State'' after ''commercial gain'';

(2) in paragraph (1)(A), by striking ''one year'' and inserting ''5 years'';

(3) in paragraph (1)(B), by striking ''two years'' and inserting ''10 years''; and

(4) so that paragraph (2) reads as follows:

''(2) in any other case—

''(A) a fine under this title or imprisonment for not more than one year or both, in the case of a first offense under this paragraph; and

''(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under this subparagraph that occurs after a conviction of another offense under this section.''.

(c) PRESENCE OF OFFICER AT SERVICE AND EXECUTION OF WARRANTS FOR COMMUNICATIONS AND CUSTOMER RECORDS.—Section 3105 of title 18, United States Code, is amended by adding at the end the following: ''The presence of an officer is not required for service or execution of a search warrant directed to a provider of electronic communication service or remote computing service for records or other information pertaining to a subscriber to or customer of such service.''.

TITLE II—OFFICE OF SCIENCE AND TECHNOLOGY

SEC. 201. ESTABLISHMENT OF OFFICE; DIRECTOR.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established within the Department of Justice an Office of Science and Technology (hereinafter in this title referred to as the ''Office'').

(2) AUTHORITY.—The Office shall be under the general authority of the Assistant Attorney General, Office of Justice Programs, and shall be independent of the National Institute of Justice.

(b) DIRECTOR.—The Office shall be headed by a Director, who shall be an individual appointed based on approval by the Office of Personnel Management of the executive qualifications of the individual.

SEC. 202. MISSION OF OFFICE; DUTIES.

(a) MISSION.—The mission of the Office shall be—

(1) to serve as the national focal point for work on law enforcement technology; and

(2) to carry out programs that, through the provision of equipment, training, and technical assistance, improve the safety and effectiveness of law enforcement technology and improve access to such technology by Federal, State, and local law enforcement agencies.

(b) DUTIES.—In carrying out its mission, the Office shall have the following duties:

(1) To provide recommendations and advice to the Attorney General.

(2) To establish and maintain advisory groups (which shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)) to assess the law enforcement technology needs of Federal, State, and local law enforcement agencies.

(3) To establish and maintain performance standards in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) for, and test and evaluate law enforcement technologies that may be used by, Federal, State, and local law enforcement agencies.

(4) To establish and maintain a program to certify, validate, and mark or otherwise recognize law enforcement technology products that conform to standards established and maintained by the Office in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113). The program may, at the discretion of the Office, allow for supplier's declaration of conformity with such standards.

(5) To work with other entities within the Department of Justice, other Federal agencies, and the executive office of the President to establish a coordinated Federal approach on issues related to law enforcement technology.

(6) To carry out research, development, testing, and evaluation in fields that would improve the safety, effectiveness, and efficiency of law enforcement technologies used by Federal, State, and local law enforcement agencies, including, but not limited to—

(A) weapons capable of preventing use by unauthorized persons, including personalized guns;

(B) protective apparel;

(C) bullet-resistant and explosion-resistant glass;

(D) monitoring systems and alarm systems capable of providing precise location information;

(E) wire and wireless interoperable communication technologies;

(F) tools and techniques that facilitate investigative and forensic work, including computer forensics;

(G) equipment for particular use in counterterrorism, including devices and technologies to disable terrorist devices;

(H) guides to assist State and local law enforcement agencies;

(I) DNA identification technologies; and

(J) tools and techniques that facilitate investigations of computer crime.

(7) To administer a program of research, development, testing, and demonstration to improve the interoperability of voice and data public safety communications.

(8) To serve on the Technical Support Working Group of the Department of Defense, and on other relevant interagency panels, as requested.

(9) To develop, and disseminate to State and local law enforcement agencies, technical assistance and training materials for law enforcement personnel, including prosecutors.

(10) To operate the regional National Law Enforcement and Corrections Technology Centers and, to the extent necessary, establish additional centers through a competitive process.

(11) To administer a program of acquisition, research, development, and dissemination of advanced investigative analysis and forensic tools to assist State and local law enforcement agencies in combating cybercrime.

(12) To support research fellowships in support of its mission.

(13) To serve as a clearinghouse for information on law enforcement technologies.

(14) To represent the United States and State and local law enforcement agencies, as requested, in international activities concerning law enforcement technology.

(15) To enter into contracts and cooperative agreements and provide grants, which may require in-kind or cash matches from the recipient, as necessary to carry out its mission.

(16) To carry out other duties assigned by the Attorney General to accomplish the mission of the Office.

(c) COMPETITION REQUIRED.—Except as otherwise expressly provided by law, all research and development carried out by or through the Office shall be carried out on a competitive basis.

(d) INFORMATION FROM FEDERAL AGENCIES.—Federal agencies shall, upon request from the Office and in accordance with Federal law, provide the Office with any data, reports, or other information requested, unless compliance with such request is otherwise prohibited by law.

(e) PUBLICATIONS.—Decisions concerning publications issued by the Office shall rest solely with the Director of the Office.

(f) TRANSFER OF FUNDS.—The Office may transfer funds to other Federal agencies or provide funding to non-Federal entities through grants, cooperative agreements, or contracts to carry out its duties under this section.

(g) ANNUAL REPORT.—The Director of the Office shall include with the budget justification materials submitted to Congress in support of the Department of Justice budget for each fiscal year (as submitted

with the budget of the President under section 1105(a) of title 31, United States Code) a report on the activities of the Office. Each such report shall include the following:

(1) For the period of 5 fiscal years beginning with the fiscal year for which the budget is submitted—

(A) the Director's assessment of the needs of Federal, State, and local law enforcement agencies for assistance with respect to law enforcement technology and other matters consistent with the mission of the Office; and

(B) a strategic plan for meeting such needs of such law enforcement agencies.

(2) For the fiscal year preceding the fiscal year for which such budget is submitted, a description of the activities carried out by the Office and an evaluation of the extent to which those activities successfully meet the needs assessed under paragraph (1)(A) in previous reports.

SEC. 203. DEFINITION OF LAW ENFORCEMENT TECHNOLOGY.

For the purposes of this title, the term ''law enforcement technology'' includes investigative and forensic technologies, corrections technologies, and technologies that support the judicial process.

SEC. 204. ABOLISHMENT OF OFFICE OF SCIENCE AND TECHNOLOGY OF NATIONAL INSTITUTE OF JUSTICE; TRANSFER OF FUNCTIONS.

(a) TRANSFERS FROM OFFICE WITHIN NIJ.—The Office of Science and Technology of the National Institute of Justice is hereby abolished, and all functions and activities performed immediately before the date of the enactment of this Act by the Office of Science and Technology of the National Institute of Justice are hereby transferred to the Office.

(b) AUTHORITY TO TRANSFER ADDITIONAL FUNCTIONS.—The Attorney General may transfer to the Office any other program or activity of the Department of Justice that the Attorney General, in consultation with the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, determines to be consistent with the mission of the Office.

(c) TRANSFER OF FUNDS.—

(1) IN GENERAL.—Any balance of appropriations that the Attorney General determines is available and needed to finance or discharge a function, power, or duty of the Office or a program or activity that is transferred to the Office shall be transferred to the Office and used for any purpose for which those appropriations were originally available. Balances of appropriations so transferred shall—

(A) be credited to any applicable appropriation account of the Office; or

(B) be credited to a new account that may be established on the books of the Department of the Treasury;

and shall be merged with the funds already credited to that account and accounted for as one fund.

(2) LIMITATIONS.—Balances of appropriations credited to an account under paragraph (1)(A) are subject only to such limitations as are specifically applicable to that account. Balances of appropriations credited to an account under paragraph (1)(B) are subject only to such limitations as are applicable to the appropriations from which they are transferred.

(d) TRANSFER OF PERSONNEL AND ASSETS.—With respect to any function, power, or duty, or any program or activity, that is transferred to the Office, those employees and assets of the element of the Department of Justice from which the transfer is made that the Attorney General determines are needed to perform that function, power, or duty, or for that program or activity, as the case may be, shall be transferred to the Office.

(e) REPORT ON IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this title. The report shall—

(1) identify each transfer carried out pursuant to subsection (b);

(2) provide an accounting of the amounts and sources of funding available to the Office to carry out its mission under existing authorizations and appropriations, and set forth the future funding needs of the Office;

(3) include such other information and recommendations as the Attorney General considers appropriate.

SEC. 205. NATIONAL LAW ENFORCEMENT AND CORRECTIONS TECHNOLOGY CENTERS.

(a) IN GENERAL.—The Director of the Office shall operate and support National Law Enforcement and Corrections Technology Centers (hereinafter in this section referred to as ''Centers'') and, to the extent necessary, establish new centers through a merit-based, competitive process.

(b) PURPOSE OF CENTERS.—The purpose of the Centers shall be to—

(1) support research and development of law enforcement technology;

(2) support the transfer and implementation of technology;

(3) assist in the development and dissemination of guidelines and technological standards; and

(4) provide technology assistance, information, and support for law enforcement, corrections, and criminal justice purposes.

(c) ANNUAL MEETING.—Each year, the Director shall convene a meeting of the Centers in order to foster collaboration and communication between Center participants.

(d) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Director shall transmit to the Congress a report assessing the effectiveness of the existing system of Centers and identify the number of Centers necessary to meet the technology needs of Federal, State, and local law enforcement in the United States.

SEC. 206. COORDINATION WITH OTHER ENTITIES WITHIN DEPARTMENT OF JUSTICE.

Section 102 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended in subsection (a)(5) by inserting ''coordinate and'' before ''provide''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) 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 on H.R. 3482.

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 such time as I may consume.

Mr. Speaker, our society has become technologically dependent. Computers and related technologies have improved every aspect of our lives, our health care, our education, and our security. Unfortunately, this same technology has also facilitated terrorist and criminal activity alike. At the stroke of a key, someone can cause millions of dollars of damage to our economy as well as threaten our national security and the public's safety.

This threat is not new; but after the September 11 attacks, the risks are greater. Even prior to the attacks, the Committee on the Judiciary's Subcommittee on Crime, Terrorism, and Homeland Security was working on legislation to improve Federal law to protect the Nation from cybercrime and cyberterrorism.

Last summer, the subcommittee held three hearings on the growing threat of cybercrime and cyberterrorism. Those hearings highlighted the fact that cybercrime knows no borders or restraints and can substantially harm the American people and our economy.

The law enforcement officials and private industry representatives at the hearings agreed that better coordination, cooperation and information-sharing were needed as well as stronger penalties for cyberattacks.

The U.S.A. PATRIOT Act, which the Committee on the Judiciary adopted much of H.R. 2915, an earlier cybersecurity bill introduced by the gentleman from Texas (Chairman SMITH), and began to improve the Nation's cybersecurity, this bill, the Cyber Security Enhancement Act of 2002, continues that work.

The bill strengthens penalties to better reflect the seriousness of cyberattacks, assists State and local law enforcement through better grant management, accountability and dissemination of technical advice and information, helps protect the Nation's critical infrastructure, and enhances privacy protections.

On May 8, the Committee on the Judiciary reported this bill favorably by voice vote. The bill as introduced and reported out of committee contained an authorization for the National Infrastructure Protection Center within the Department of Justice.

Since that time, it appears that the center will be transferred out of the Department of Justice into the new Department of Homeland Security proposed in H.R. 5005. Accordingly, the committee has removed that authorization to be consistent with H.R. 5005 in this amended version of H.R. 3482. The bill also contains a few technical changes as well.

H.R. 3482, the Cyber Security Enhancement Act of 2002, is designed to increase the cybersecurity of our Nation against criminal and terrorist attacks. As one of the most technologically advanced nations in the world, we must deal with a new vulnerability, the interconnectedness of our Nation's economy and national security. I urge Members to support this bill.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

(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 to join the gentleman from Wisconsin (Mr. SENSENBRENNER) in support of H.R. 3482, the Cyber Security Act of 2002. I support the concept of allowing internal service providers to give information to law enforcement officials when emergency threat of death or serious bodily injury exists.

In general, information held by an ISP is private information which is entitled to protection as such. In fact, we have worked very hard to ensure that the privacy of Internet users and providers have been secured. This is a new way that America provides its information and communication; and, therefore, we believe the privacy issues are extremely important.

□ 1415

Under current law, an ISP is authorized to release information to law enforcement officials when the ISP reasonably believes an immediate danger exists. For an ISP to reasonably believe an immediate danger exists, an assessment of relevant information must be made. However, if the FBI presents information which an ISP believes, if true, would present a threat of death or serious bodily injury, the ISP dispatcher on duty should not have to wake up the corporate general counsel to assess the information to determine if it can be reasonably believed, particularly as relates to saving lives. If there is time to do all that, there is time to go to a magistrate or judge and get a search warrant. Accordingly, I would support changing ''reasonably believed'' to ''believes in good faith'' as the bill does.

I appreciate the adjustments Subcommittee Chairman SMITH made to the bill to address concerns that we had with the bill and Ranking Member SCOTT had with the bill, including adding a reporting requirement for law enforcement officials to report on their use of the provision during the year following enactment so that we can see how it is being used. This is in keeping with the balance that I think is important in fighting terrorism and providing law enforcement officers with the tools that they need, as well as balancing the rights of Americans. It is one thing to use this emergency authority for genuine emergencies involving threats to life or safety. It is another thing to use it in a calculated manner to get around the regular requirement of obtaining a warrant from a detached magistrate or judge before being given access to private information. Since the subscriber may never know of the access by law enforcement to his or her private information, there will be no way to know if they are assessing information erroneously or improperly. With this particular requirement, providing this information in the year following, this will help determine that. With the reporting requirement, we should be able to assess whether this provision is being used as contemplated and not abused.

With this understanding of the bill, Mr. Speaker, I support it and urge my colleagues to vote for it.

Mr. Speaker, I rise to join Chairman SENSENBRENNER in support of H.R. 3482, the Cyber Security Act of 2001.

I support the concept of allowing Internet Service Providers (ISP) to give information to law enforcement officials when an emergency threat of death or serious bodily injury exists. In general, information held by an ISP in private information which is entitled to protection as such. Under current law, an ISP is authorized to release information to law enforcement officials when the ISP ''reasonably believes'' an immediate danger exists. For an ISP to ''reasonably believe'' an immediate danger exists, an assessment of relevant information must be made. However, if the FBI presents information which an ISP believes, if true, would present a threat of death or serious bodily injury, the ISP dispatcher on duty shouldn't have to wake up the corporate general counsel to assess the information to determine if it can be reasonably believed. If there is time to do all that, there is time to go to a magistrate or judge and get a search warrant. Accordingly, I support changing ''reasonably believes'' to ''believes in good faith'', as the bill does.

I appreciate the adjustments Subcommittee Chairman SMITH made to the bill to address concerns I had with the bill, including adding a reporting requirement for law enforcement officials to report on their use of the provision during the year following enactment, so that we can see how it is being used. It is one thing to use this emergency authority for genuine emergencies involving threats to life or safety, it is another thing to use it in a calculated manner to get around the regular requirement of obtaining a warrant from a detached magistrate or judge before being given access to private information. Since the subscriber may never know of the access by law enforcement to his or her private information, there will be no way to know if they are accessing information erroneously or improperly. With the reporting requirement, we should be able to assess whether this provision is being used as contemplated, and not abused.

With this understanding of the bill, Mr. Speaker, I support it and urge my colleagues to vote for it.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. SMITH), the subcommittee chairman.

Mr. SMITH of Texas. Mr. Speaker, I thank the chairman of the Committee on the Judiciary for yielding me this time.

Mr. Speaker, many people think of cybercrime simply as a form of vandalism involving hacking or planting viruses. Cybercrime is much more than this. It can devastate our businesses, economy and national infrastructure. Cybercrime also includes child pornography, which terrorizes our children and our families. Criminals use computer technology to steal life savings and the identities of unsuspecting individuals. These attacks threaten the lives and the livelihoods of many innocent victims.

Mr. Speaker, a crime is still a crime, whether it occurs on the Internet or on the street. We are in a war against terrorism. According to a recent newspaper article, ''Unsettling signs of al Qaeda's aims and skills in cyberspace have led some government experts to conclude that terrorists are at the threshold of using the Internet as a direct instrument of bloodshed.''

The article stated, ''Most significantly, perhaps, U.S. investigators have found evidence in the logs that mark a browser's path through the Internet that al Qaeda operators spent time on sites that offer software and programming instructions for the digital switches that run power, water, transport and communication grids.''

Cybercrimes and cybercriminals know no borders. As long as there is technology, cybercrime will exist. We must improve our Nation's cybersecurity and strengthen our criminal laws to prevent, deter and respond to such attacks.

This legislation, H.R. 3482, the Cyber Security Enhancement Act of 2002, increases penalties to better reflect the seriousness of cybercrime, enhances Federal, State and local law enforcement efforts through better coordination, and assists State and local law enforcement officials through better grant management, accountability and dissemination of technical advice and information. The Information Technology Association of America stated that the bill is important for strengthening guidelines on sentencing people who are convicted of cybercrimes. The Information Technology Industry Council concluded that the bill will remove obstacles to information-sharing between the public and private sectors to strengthen Internet security.

Mr. Speaker, we must protect our Nation and our economy from the growing threat of cyberattacks. Penalties and law enforcement capabilities must be able to prevent and deter cybercriminals. Until we secure our cyberinfrastructure, a few keystrokes and an Internet connection is all one needs to disable the economy or endanger lives. A mouse can be just as dangerous as a bullet or a bomb. That is why I urge my colleagues to support this legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BOEHLERT), the chairman of the Committee on Science.

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

Mr. Speaker, I rise in strong supports of H.R. 3482, the Cyber Security Enhancement Act of 2002. I want to thank the gentleman from Texas (Mr. SMITH), the Subcommittee on Crime, Terrorism and Homeland Security chairman, for his excellent work in bringing this bipartisan bill to the floor. I also want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), Judiciary chairman, former chairman of the Committee on Science, where he received

his best training. From his years of service on the Committee on Science, the gentleman from Wisconsin understands that research and development are critical weapons in the war on terrorism as well as our fight against all forms of crime. We know that the next war, the current war, the ongoing war, is going to be won as much in the laboratory as on the battlefield.

Mr. Speaker, title I of the legislation enhances penalties for cybercrime and allows for better cooperation between law enforcement and the private sector to investigate cybercrime. This is critical. However, in the interest of time, I will limit my comments to title II of the bill before the House today.

Title II establishes an Office of Science and Technology within the Office of Justice Programs at the Justice Department. It is a needed step forward in our fight against all forms of crime and terrorism. I have said repeatedly, the war on terrorism, like the Cold War, will be won in the laboratory as much as on the battlefield. That means that, as in the Cold War, we must properly organize our government to put the most into and get the most out of our academic, government and industry laboratories. Criminal use of technology, specifically information technology, is now commonplace. We rely on computers, the Internet, cell phones and pagers every day. But so, too, do the criminals and terrorists.

Increasingly criminals are becoming more and more sophisticated. Online fraud, identity theft, child pornography, computer intrusions, hacking and introduction of viruses are all on the rise. Unfortunately, U.S. law enforcement is often ill-equipped to counter this criminal high tech trend. It is particularly true for State and local law enforcement that often lack the resources, training and expertise to effectively use advanced information technology to stop crime. Currently the Justice Department does support the development of new technologies, mostly through the National Institute of Justice, to serve the needs of law enforcement and corrections agencies, but the effort as it stands today is unfocused and limited.

That is why I have sought for over 3 years to establish an office for science and technology within the Department of Justice with the mission of improving the technical capabilities of law enforcement at all levels. The bill before us today would do just that. Let me also note that this bill would not create a new bureaucracy. In fact, the Congressional Budget Office has scored this bill as revenue-neutral. Rather, the bill would transfer existing assets within the Justice Department to give the agency an improved science and technology capability to better respond to threats posed by technically savvy criminals and terrorists. This is a commonsense proposition. U.S. law enforcement agencies traditionally do not have research and development capabilities like those found in the military. Rather than creating a new R&D infrastructure for law enforcement, we must find ways to help law enforcement gain access to the scientific expertise found in our colleges and universities as well as our defense and national laboratories.

H.R. 3482 does this by explicitly authorizing DOJ's existing network of regional technology assistance centers, the National Law Enforcement and Corrections Technology Centers. These centers are able to leverage existing defense capabilities in sensitive areas such as information security, chemical, biological and nuclear security to provide Federal, State and local law enforcement access to the best technologies available to meet these emerging threats.

In my home district, one such center is leading the Nation in the fight against cybercrime and all forms of crime. This is the National Law Enforcement and Corrections Technology Center, Northeast Region, located at the Air Force Research Laboratory Information Directorate at Rome, New York. A prominent example of the center's work was the establishment of the highly successful Utica Arson Strike Force in 1997. In less than a year, the city went from worst to first in the Nation in the rate of arson convictions. Leveraging the high tech expertise of the Air Force research laboratory, the center was able to create affordable technology tools for the Utica task force's use.

While the track record of the center and others around the Nation is impressive, the amount of resources available for technical assistance is meager. The entire center system, as well as the science and technology function within the Department of Justice, needs a clear congressional mandate and an adequate budget. This bill would bring needed focus to R&D in support of law enforcement and establish the Office of Science and Technology as a key liaison between DOJ and other Federal research agencies.

Mr. Speaker, the Committee on Science recently heard testimony from a distinguished panel of the National Academy of Sciences about the need for greater science and technology investment to combat terrorism. For this reason, the Committee on Science unanimously approved the creation of an under secretary for research and development in the proposed Homeland Security Department. The bill before us today is consistent with this vision. As we move forward in this process, I hope to forge a close working partnership between DOJ's Office of Science and Technology and the new Homeland Security Department.

I look forward to working with Chairman SENSENBRENNER, Chairman SMITH and all members of the Committee on the Judiciary to ensure appropriate coordination of effort to help combat terrorism and to ensure that more and more State and local first responders have access to first-rate scientific and technological expertise.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume. I rise to support this legislation. I just want to make note that this legislation has provided a reporting requirement placed in the bill to help address the concerns, making sure that the legislation is used properly. I would have liked to have added additional safeguards dealing with the unreasonable search and seizure, but I believe that the reporting requirement will go a long ways to addressing that concern, and I would ask my colleagues to support this legislation.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 3482, the Cyber Security Enhancement Act of 2002.

This resolution achieves several goals. The act will serve as a national focal point for science and technology and it will also aid in the development and dissemination of cyber law enforcement and technology.

Moreover, it will make technical assistance available to Federal, State, and local law enforcement agencies which is increasingly critical for our national security and infrastructure.

Crimes of fraud in computers with protected information or computers used by the Federal Government are addressed in the legislation.

A program will be established and maintained to certify, validate, and mark, or otherwise recognize law enforcement technology products that conform to standards set by the National Infrastructure Protection Center.

The National Infrastructure Protection Center will operate for regional national law enforcement and corrections technology centers and, to the extent necessary, establish additional centers through a competitive process.

This bill further provides that law enforcement agencies utilize and establish forensic technology, and technologies that support the judicial process.

The use of these forensic tools will assist State and local law enforcement agencies in combating cybercrime. In addition, penalties will increase for violations where the offender knowingly causes death or serious bodily injury.

Mr. Speaker, I urge this body to support this measure as it addresses the growing and increasingly visible problem of cybercrime.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3482, as amended.

The question was taken.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

AMERICAN LEGION AMENDMENTS ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3988) to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

The Clerk read as follows:

H.R. 3988

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

SECTION 1. CLARIFICATION OF REQUIREMENTS FOR ELIGIBILITY IN THE AMERICAN LEGION.

Section 21703(2) of title 36, United States Code, is amended by inserting ''during or'' after ''continues to serve honorably''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) 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 H.R. 3988 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 such time as I may consume.

Mr. Speaker, H.R. 3988 would amend the Federal charter of the American Legion.

□ 1430

Current law makes a veteran eligible to become a member of the legion if that veteran has served since ''August 2, 1990 through the date of cessation of hostilities as decided by the United States Government'' and was ''honorably discharged or separated from that service or continues to serve honorably after that period.''

The United States Government has never issued a cessation of hostilities declaration for the Persian Gulf War. For those who are no longer serving, they have discharge papers stating that they honorably served during that period. Servicemen who have served since August 2, 1990, and are still on active duty, have no discharge papers for the period, and are not serving after the cessation of hostilities, but during that period.

The amendment would simply change the standard for qualification for membership in the legion by adding the words ''during or'' so that it states ''continues to serve during or after that period'' to make it clear that legion membership is open to active duty personnel who served during Operations Desert Shield, Desert Storm, and all of the operations that followed in Iraq, Bosnia, Kosovo, and Afghanistan.

Mr. Speaker, I urge the House to pass H.R. 3988 to make this change in the Federal charter of the American Legion.

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

Ms. JACKSON-LEE of Texas. I yield myself such time as I may consume.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is always important to respect our veterans and to provide additional assistance to them.

This bill makes a technical amendment to the membership qualifications language of the Federal charter of the American Legion. Currently, under the statute, veterans who get out of service are eligible to become members of the American Legion if they served since ''August 2, 1990 through the date of cessation of hostilities, as decided by the United States Government'' and ''was honorably discharged or separated from that service or continues to serve honorably after that period.''

Under the charter, however, the U.S. Government has never issued a cessation of hostilities decision signifying the end to a conflict. Those who are no longer serving have discharge papers stating they served honorably during that period, so they are unaffected. However, servicemen who served since August 2, 1990, and are still on active duty have no discharge papers for the period, and serve without the benefit of a U.S. Government-issued cessation of hostilities decision.

The amendment would simply change the standard for qualification to say a veteran that ''continues to serve during or after that period'' will qualify for membership. This makes it clear that membership is open to thousands of active duty personnel who served during Operations Desert Shield, Desert Storm, and all of the operations that followed in Iraq, Bosnia, Kosovo and Afghanistan, thereby respecting these particular service personnel and veterans and allowing them to participate in a very important and certainly honorable organization, the American Legion.

''The American Legion was chartered by Congress in 1919 as a patriotic, mutual-help, wartime veterans organization.'' The 2.8 million-member American Legion is the Nation's largest veterans organization with nearly 15,000 American Legion posts worldwide. The Legion assists our Nation's communities through ''fundraising programs, educational activities, library, and museum services, and many others.''

As has been stated, this is a technical amendment that allows thousands upon thousands of veterans and service personnel and others to join the American Legion, and I believe this will add vitality to the American Legion.

This bill makes a technical amendment to the membership qualifications language of the federal charter of the American Legion. Currently, under the statute, veterans who get out of service are eligible to become members of the American Legion if they served since: ''August 2, 1990 through the date of cessation of hostilities, as decided by the United States Government'' and ''was honorably discharged or separated from that service or continues to serve honorably after that period.''

Under the Charter, however, the U.S. Government has never issued a cessation of hostilities decision signifying the end to a conflict. Those who are no longer serving have discharge papers stating they served honorably during that period so they are unaffected. However, servicemen who served since August 2, 1990 and are still on active duty have no discharge papers for the period, and serve without the benefit of a U.S. government issued cessation of hostilities decision.

The amendment would simply change the standard for qualification to say a veteran that ''continues to serve during or after that period'' will qualify for membership. This makes it clear that membership is open to the thousands of active duty personnel who served during operations Desert Shield, Desert Storm, and all the operations that followed in Iraq, Bosnia, Kosovo, and Afghanistan.

''The American Legion was chartered by Congress in 1919 as a patriotic, mutual-help, war-time veterans organization.'' The 2.8-million member American Legion is the nation's largest veterans organization with nearly 15,000 American Legion Posts worldwide. The Legion assists our nations communities through ''fund-raising program, educational activities, library and museum services, and many others.''

As has been stated, this Amendment simply allow more veterans to join in the good works of the American Legion. This will provide additional vitality to the Legion and I urge my colleagues to support this Act.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

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

This is an opportunity for us to pay tribute to the American Legion that goes beyond the purpose of the bill, which is laudable, and that is to allow the legion to expand its membership by inclusion of certain categories of veterans who heretofore have not been able to qualify.

But I want to bring into the CONGRESSIONAL RECORD remembrances of the American Legion as a young boy growing up in central Pennsylvania. Most of the parades and most of the patriotic functions of that era were either sponsored by or joined in by the American Legion, but that was not all. They also sponsored teenage baseball organizational sports, they also sponsored essay and oratorical contests in the high schools, and in a variety of ways went beyond their chief function of honoring the veteran, because they were part of the actual life of the community in so many different ways.

Then the other portion of the American Legion that sticks hard to my memory is that during the time I served in the Armed Forces myself,

there were two refuges for us in the various bases in which we served, and in particular, I remember in Fort Knox, Kentucky, the USO was always there on the weekends for the purpose of providing extra services and relaxation for the veterans who were serving or the members of the Armed Forces who were serving at Fort Knox, and also the American Legion always had some kind of hostmanship-type of function to welcome the soldiers who were stationed at Fort Knox.

So for a whole series of remembrances for this Member, we support the bill and hope that many more veterans will be joining the ranks of the American Legion in the next several years.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 3988, the American Legion Amendments Act. I urge my colleagues to support this timely measure.

This legislation amends the charter of the American Legion to revise eligibility for the organization to those individuals who have served honorably in the Armed Forces during or after specific periods. Presently, service members are only eligible if they have served during specific periods, including designated windows for World War I, World War II, Korea, Vietnam, Lebanon/Grenada, Panama, and Desert Storm. Because the window governing Desert Storm has not closed, under current law, Desert Storm veterans are not eligible to join the American Legion. This measure corrects this problem.

The American Legion was founded and chartered by Congress in 1919. Its first major accomplishment was the creation of the U.S. Veterans Bureau, which was the precursor to the Veteran's Administration. Significant accomplishments of the Legion include the enactment of the G.I. bill, and the establishment of the cabinet-level department of Veterans Affairs.

The Legion also led the fight for an investigation into the use of Agent Orange in Vietnam, the investigations into gulf-war illnesses among Desert Storm veterans, and for the constitutional amendment to prohibit physical desecration of the American flag.

Like its fellow veterans service organizations, the American Legion offers valuable service to its membership, including, but not limited to: seeking discharge upgrades, record corrections, education benefits, disability compensation matters and pension eligibility. The Legion also has a long and distinguished history of community service.

Given our current war on terrorism, I believe it is appropriate for Congress to recognize, expand and promote the efforts of our veterans service organizations. For this reason, I urge my colleagues to support this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3988.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AMVETS CHARTER AMENDMENT ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3214) to amend the charter of the AMVETS organization.

The Clerk read as follows:

H.R. 3214

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

SECTION 1. AMENDMENTS TO AMVETS CHARTER.

(a) NAME OF ORGANIZATION.—(1) Sections 22701(a) and 22706 of title 36, United States Code, are amended by striking ''AMVETS (American Veterans of World War II, Korea, and Vietnam)'' and inserting ''AMVETS (American Veterans)''.

(2)(A) The heading of chapter 227 of such title is amended to read as follows:

''CHAPTER 227—AMVETS (AMERICAN VETERANS)''.

(B) The item relating to such chapter in the table of chapters at the beginning of subtitle II of such title is amended to read as follows:

''227. AMVETS (AMERICAN VETERANS) ..... 22701''.

(b) GOVERNING BODY.—Section 22704(c)(1) of such title is amended by striking ''seven national vice commanders'' and all that follows through ''a judge advocate,'' and inserting ''two national vice commanders, a finance officer, a judge advocate, a chaplain, six national district commanders,''.

(c) HEADQUARTERS AND PRINCIPAL PLACE OF BUSINESS.—Section 22708 of such title is amended—

(1) by striking ''the District of Columbia'' in the first sentence and inserting ''Maryland''; and

(2) by striking ''the District of Columbia'' in the second sentence and inserting ''Maryland''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) 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 include extraneous material on H.R. 3214, the bill currently 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 such time as I may consume.

Mr. Speaker, H.R. 3214 would amend the Federal charter for the American Veterans of World War II, Korea and Vietnam to American Veterans to more accurately reflect the membership of AMVETS. AMVETS membership now includes not only veterans from those three wars, but also anyone who served honorably after 1940, and the National Guardsmen and Reservists.

At the AMVETS annual convention in 1998, the delegates voted for an official name change from American Veterans of World War II, Korea, and Vietnam to American Veterans to more accurately reflect the membership. Additionally, AMVETS has voted to change the structure of their governing body. This bill contains language to reflect the structure change in the statute.

Finally, because AMVETS has moved the location of their headquarters from the District of Columbia to Lanham, Maryland, the ''Headquarters and principal place of business'' section of their charter needs to be changed to indicate that they are now located in Maryland. In order for these changes to be recognized by the Department of Veterans Affairs, the AMVETS Federal charter must be amended, and this bill does that.

Mr. Speaker, I urge the House to pass H.R. 3214, and I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, the legislation that we have before us, H.R. 3214, would amend the Federal charter of the American veterans of World War II, Korea, and Vietnam to reflect changes made at its 1998 convention. It is extremely important to ensure that we respond to the request of these valiant and heroic servicemen and women.

Their original charter, received in 1947, has been amended by Congress over the years to give membership to Korean War veterans and Vietnam veterans, and to reflect other changing characteristics of the organization.

In 1998, at the AMVETS annual convention, the delegates voted for an official name change of American veterans of World War II, Korea, and Vietnam to ''American Veterans'' to more accurately reflect the membership of AMVETS. Additionally, AMVETS voted to change the structure of their governing body. The organization also voted to change the location of their headquarters from the District of Columbia to Lanham, Maryland. Therefore, the ''Headquarters and principal place of business'' section of their charter needs to be changed to indicate that they are now located in Maryland.

In order for these changes to be recognized by the Department of Veterans Affairs, the AMVETS Federal charter must be amended. This bill will accomplish that and allow them to continue to do the service that they do on behalf of the American people and as well to continue to honor the veterans who participate in this organization.

I support H.R. 3214 as it would amend the Federal charter of the American Veterans of

World War II, Korea, and Vietnam (AMVETS), to reflect changes made at its 1998 convention. Their original charter, received in 1947, has been amended by Congress over the years to give membership to Korean War veterans and Vietnam veterans, and to reflect other changing characteristics of the organization.

In 1998, at the AMVETS annual convention, the delegates voted for an official name change from American Veterans of World War II, Korea, and Vietnam to ''American Veterans'' to more accurately reflect the membership of AMVETS. Additionally, the AMVETS voted to change the structure of their governing body. The organization also voted to change the location of their headquarters from the District of Columbia to Lanham, Maryland. Therefore, the ''Headquarters and principal place to business'' section of their charter needs to be changed to indicate they are now located in Maryland.

In order for these changes to be recognized by the Department of Veterans Affairs the AMVETS federal charter must be amended. This bill will accomplish all of this.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

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

This time, of course, I want to speak about the AMVETS who, in Pennsylvania, throughout the time that I served in the legislature, continuously participated in legislative action that pertained to veterans. On the question of veterans preference in civil service examinations and placement, in veterans benefits of all types, and in the question that arose from time to time on the legitimacy of when certain holidays were to be observed: Memorial Day, Veteran's Day back then, which was Armistice Day, et cetera.

So the AMVETS themselves, just like the American Legion aforementioned, have participated in civic, as well as neighborhood, events throughout Pennsylvania and, I am sure, throughout the Nation.

I wanted the record to be complete that this veterans organization, just as the American Legion, have been a part of the neighborhood for many, many years and will continue to expand now that we know the parameters, through this legislation, will have been expanded.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Let me just simply say that today as we stand here on this floor, we have young men and women fighting for us in Afghanistan, young men and women serving in Guantanamo Bay, Cuba. This is important legislation, as the previous legislation was, to make procedural changes for our vets; and we honor them as we amend this particular legislation, and I would ask my colleagues to support it.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 3214, the AMVETS Charter Amendment Act. I urge my colleagues to support this timely measure.

This legislation amends the charter of the AMVETS organization to: change the meaning of AMVETS to American veterans, revises the composition of its governing body, and provides for its headquarters and place of business to move from the District of Columbia to Maryland.

AMVETS, which previously stood for the American Veterans of World War II, Korea and Vietnam, was founded in 1944 out of the belief that WWII Veterans needed an organization that represented their generation. In the following decades, veterans from Korea and Vietnam were permitted to join through charter modifications made by Congress.

Like its fellow veterans service organizations, AMVETS offers valuable services to its membership, including, but not limited to: seeking discharge upgrades, record corrections, education benefits, disability compensation matters and pension eligibility. AMVETS also has a long and distinguished history of community service.

Given our current war on terrorism, I believe it is appropriate for Congress to recognize, expand and promote the efforts of our veterans service organizations. For these reasons, I urge my colleagues to support this measure.

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of H.R. 3214, a bill I introduced to amend the Federal charter for the AMVETS organization. The bill makes a number of simple changes to the organization's current charter, which was first approved in 1947.

First, my bill changes the meaning of AMVETS from American Veterans of World War II, Korea and Vietnam to American veterans. AMVETS was founded on December 10, 1944, in Kansas City, Missouri. It was born out of the desire for WWII veterans to have their own organization.

Overtime, AMVETS' charter has been amended to allow veterans from following wars to join the organization. In 1984, the charter was amended to allow anyone who served honorably after 1940 to join the veterans' group. As a result, its current name does not encompass this broader membership. H.R. 3214 would correct this discrepancy and allow the organization's name to more adequately reflect its current membership. This name change was also approved by the organization's members at their 1998 annual convention.

In 1961, AMVETS modified the structure of its governing body. However, its current charter still reflects its old organizational structure. Therefore, H.R. 3214 also revises the organization's Federal charter to reflect the new composition of AMVETS' governing body.

Finally, since the approval of the original charter, the organization has relocated their headquarters from the District of Columbia to Lanham, Maryland. H.R. 3214 amends the original AMVETS charter to provide for its headquarters and principal place of business to be in Maryland rather than the District of Columbia.

I want to thank Chairman SENSENBRENNER, Subcommittee Chairman GEKAS, full Committee Ranking Member CONYERS and Subcommittee Ranking member SHEILA JACKSON-LEE for their assistance in moving this legislation.

H.R. 3214 is noncontroversial and I urge my colleagues to support the legislation.

Mr. EVANS. Mr. Speaker, as an original cosponsor of H.R. 3214, the AMVETS Charter Amendment Act, I am pleased this important measure has been considered and favorably reported by the Committee on Judiciary. This measure amends the AMVETS charter to bring the charter into conformance with current practices. It deserves the support of every Member.

Mr. Speaker, I also want to thank the gentleman from Florida, MIKE BILIRAKIS, for his leadership on this issue. As the author of H.R. 3214, MIKE BILIRAKIS has been a strong and committed advocate for H.R. 3214 and his efforts in large measure are responsible for this important legislation being considered by the House today.

Again, I urge all of my colleagues to support passage of H.R. 3214, the AMVETS Charter Amendment Act.

Ms. JACKSON-LEE of Texas.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3214.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

VETERANS OF FOREIGN WARS CHARTER AMENDMENT ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3838) to amend the charter of the Veterans of Foreign Wars of the United States organization to make members of the armed forces who receive special pay for duty subject to hostile fire or imminent danger eligible for membership in the organization, and for other purposes.

The Clerk read as follows:

H.R. 3838

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

SECTION 1. AMENDMENTS TO VETERANS OF FOREIGN WARS OF THE UNITED STATES CHARTER.

(a) ELIGIBILITY FOR MEMBERSHIP OF INDIVIDUALS RECEIVING SPECIAL PAY FOR DUTY SUBJECT TO HOSTILE FIRE OR IMMINENT DANGER.—Section 230103 of title 36, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; or''; and

(3) by adding at the end the following new paragraph:

''(3) in an area which entitled the individual to receive special pay for duty subject to hostile fire or imminent danger under section 310 of title 37.''.

(b) CLARIFICATION OF PURPOSES OF THE CORPORATION.—Section 230102 of such title is amended in the matter preceding paragraph (1) by inserting ''charitable,'' before ''and educational,''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) 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 include extraneous material on H.R. 3838, the bill currently 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 such time as I may consume.

Mr. Speaker, H.R. 3838 would amend the Federal charter of the Veterans of Foreign Wars to allow any member of the Armed Forces who received hostile fire or imminent danger pay to be a member of the VFW. The language would allow veterans from conflict areas such as Somalia or Kosovo to be eligible for membership in the VFW.

Currently, VFW membership is limited to those who have honorably served in the Armed Forces and who have received a campaign medal for service or those who served honorably for a specific period on the Korean peninsula.

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Without this amendment, members of the Armed Forces who served under equally dangerous conditions, such as those experienced in the campaign medal service in Korea, are not eligible for VFW membership.

The bill also adds the word ''charitable'' to the purpose of the VFW. VFW members volunteer millions of hours to local communities. Although volunteerism has always been a large part of the mission of the VFW, in some States the VFW is being denied qualification as a charitable organization because ''charitable'' is not included in their charter language.

These amendments reflect the language of two resolutions approved by the voting delegates of the VFW at their national convention in Milwaukee, Wisconsin. I urge the House to pass this bill to ratify the changes to the VFW Federal charter, which have been approved by the membership.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support this legislation. This bill amends the Federal charter of the Veterans of Foreign Wars, VFW, to allow any members of the armed services or Armed Forces who have received hostile fire or imminent-danger pay to be a member of the VFW, and that is a great honor for so many of our men and women who have served in the United States military.

Without this amendment, members of the Armed Forces who have served under equally dangerous conditions as those experienced in campaign medal service in Korea and in conflict areas such as Somalia or Kosovo are not eligible for VFW membership.

The act also amends the charter of the VFW to include the word ''charitable'' as one of the purposes. VFW members have provided substantial amounts of time and volunteer efforts in their communities and to the needy. This will prevent some States from denying the VFW qualification as a charitable organization under 501(c) of the Tax Code simply because the word ''charitable'' is not mentioned in the charter.

In Texas, there are tens of thousands of members of the VFW. In my district there are thousands of VFW members, and I can assure the Members they are outstanding members of our community. They always provide us with honor and grace in our patriotic parade, and they serve us in the Memorial Day commemoration as well as the Veterans Day commemoration, along with the many other veterans groups. Also, they are there to serve the community when we are in need.

As I speak today, I pay tribute to all of the veterans groups in the State of Texas, in the 18th Congressional District, and, of course, this Nation. These members provide critical assistance to other veterans, they help raise funds for the March of Dimes, and they provide scholarships to our Nation's youth.

I urge my colleagues to support this measure, which will simply allow veterans of succeeding conflicts entry into these esteemed veterans organizations. Again, I would be remiss without acknowledging the brave men and women who serve us now in Afghanistan, throughout the Nation, and throughout the world.

Mr. Speaker, this bill amends the federal charter of the Veterans of Foreign Wars, VFW, to allow any member of the armed forces who has received hostile fire or imminent danger pay to be a member of the VFW. Without this amendment members of the armed forces who served under equally as dangerous conditions as those experienced in campaign medal service in Korea and in conflict areas such as Somalia or Kosovo are not eligible for VFW membership.

The Act also amends the charter of the VFW to include the word ''charitable'' as one of the purposes of the VFW. VFW members have provided substantial amounts of time to volunteer efforts in the communities and to the needy. This will prevent some states from denying VFW qualification as a charitable organization under 501(c) of the Tax Code simply because the word charitable is not mentioned in the charter. In the state of Texas, there are ten of thousands of members of the VFW. In my district there are thousands of VFW members. These members provided critical assistance to other Veterans, help raise funds for the March of Dimes and provide scholarships to our nation's youth.

I urge my colleagues to support this measure which will simply allow veterans of succeeding conflicts entry into these esteemed veterans organizations.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

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

Mr. Speaker, this time I rise to pose some reflections on the VFW. Many people will recall historically that during the Truman years there was an act of terrorism right in this Chamber, when terrorists of a different era shot up the entire Chamber here, wounding several people.

One of the Members of the House at that time was the gentleman from Pennsylvania, Jimmy Van Zandt from Altoona, Pennsylvania, who helped to apprehend one of the terrorists with a gallant leap into the back portion of the balcony, and brought him or helped bring him to justice.

But more than that, this Jimmy Van Zandt was also, prior to that, national commander of the VFW. He holds a place of honor in that organization for his special efforts and for his service directly to the country.

Then there was Dominique DeFrancesco, also from central Pennsylvania, served as national commander of the American Legion when, in 1991, he joined then President Bush in the 50-year commemorations at Pearl Harbor.

These are the kinds of devoted veteran citizens who are in the background of what we do here today when we enlarge the membership potential of their organizations.

But the most important portion of the VFW, as far as I am concerned, is because the last 30 years or more I have participated as a judge in the VFW's annual Voice of Democracy contest. Here is a contest of radio-spoken essays by our high school students who speak on what America means to them, or some other subject matter having to do with patriotism. In this way, the VFW spreads the notion of loyalty to our Nation, service to our communities, and patriotism. For that, I salute the VFW and urge everyone to support the legislation that is in front of us.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say that just a few minutes ago we have supported H.R. 3988, H.R. 3838, and H.R. 3214, legislative initiatives helping our veterans.

I want to acknowledge and applaud the President for his recent pronouncement of allowing those who are serving in our military to apply for citizenship immediately, without having to wait a period of time previously embodied in our law.

With that in mind, Mr. Speaker, I think as member of the Subcommittee on Immigration, Border Security, and Claims of the Committee on the Judiciary, I hope that the Congress will move

swiftly to pass 245(i) that will allow immigrants to access legalization and become citizens. This is long overdue. This is legislation that recognizes that we do not equate immigration to terrorism, and it is as patriotic as the legislation that we have just passed today.

So I hope that the Congress will move quickly on this legislation, and I rise again to support the legislation before us and ask my colleagues to support this legislation as we honor the men and women who have served us in the United States military and now our veterans; and as we honor those, as well, who serve us every day fighting for our freedoms.

I know the veterans of the nation, are sympathetic to doing the right thing for all of us!

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

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

Mr. Speaker, just let me make it clear, this bill has nothing to do with the immigration law, lest anybody have a misimpression on this. It is legislation that changes the qualification for membership in the VFW, as well as makes it clear that the VFW is a charitable organization. Both of these changes were requested by the delegates to the last VFW annual convention that was held in August of last year in my hometown of Milwaukee, Wisconsin.

The best way we can help our veterans, I think, is by not confusing the issue. Let us help our veterans by doing what they asked us to do, which is to allow them to expand their membership, as well as to get some State departments of revenue off their back claiming that what the VFW does is not charitable in nature.

I think all of us in this Chamber know that the VFW is a legitimate and honorable charitable organization, and I think that we can send the message very clearly by amending their charter to get the State tax departments off their backs so that they can continue to do their very meritorious work.

Mr. SMITH of New Jersey. Mr. Speaker, as the sponsor of H.R. 3838, I rise to urge all of my colleagues to support this legislation that will amend the Congressional charter of the Veterans of Foreign Wars (VFW). As Chairman of the Veterans' Affairs Committee, I was pleased to introduce this bill on March 4, 2002, at the request of the VFW to allow Members of the armed forces who have received hostile fire or imminent danger pay to be eligible for VFW membership.

Mr. Speaker, I want to especially commend the Chairman of the Judiciary Committee, Mr. SENSENBRENNER; the Committee's Ranking Member, Mr. CONYERS, the Chairman of the Judiciary Subcommittee on Immigration and Claims; Mr. GEKAS; and the Subcommittee's Ranking Member, Ms. JACKSON-LEE, for their attention to this matter in moving the bill through the committee and to the floor for House consideration.

This bipartisan amendment to the VFW charter simply allows the organization to keep up with the times as the nature of our Nation's military operations has changed. The VFW's charter currently requires a veteran to have received a campaign medal in order to join the organization. But the dangerous contingency operations our servicemembers have participated in over the past twenty or so years have not resulted in the award of campaign medals. Servicemenbers doing their duty in global hot spots have faced the type of risks that should qualify them for VFW membership. My bill would remove this barrier to membership in a way that is consistent with the type of military service the VFW has always required.

Mr. Speaker, H.R. 3838 would also address a technical problem the VFW has occasionally encountered with the language of its charter regarding its purposes as an organization. The VFW has maintained a tax-exempt, nonprofit status, but some states do not want to qualify it as a tax-exempt charitable organization despite its long history of charitable work in communities across America, because its charter does not contain the word ''charitable''. Well, Congress can and should fix this relatively simply problem by inserting the word ''charitable'' as one of its purposes in order to silence anyone who insists on elevating form over substance.

Mr. Speaker, with roots that go back more than a century to the Spanish-American War, the Veterans of Foreign Wars has an admirable history of helping its fellow veterans, their communities and their Nation. This legislation will help to ensure that the VFW continues to perform these services in the 21st century and beyond. H.R. 3838 deserves the support of every House member and I urge its approval.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 3838, the Veterans of Foreign Wars Charter Amendment act. I urge my colleagues to support this timely measure.

This legislation amends the charter of the Veterans of Foreign Wars Organization to make members of the armed forces who receive special pay for duty that is subject to hostile fire or imminent danger eligible for membership in the organization. This change would allow veterans of operations in Somolia and Kosovo to become eligible for VFW membership.

The VFW is one of the oldest veterans service organizations in the country, and has a long and hallowed history. The VFW was founded in 1899 for soldiers returning from the Spanish-American war and Philippine insurrection. It was instrumental in creating the Veterans Administration and its subsequent elevation to cabinet level status.

The VFW participates in numerous community service efforts, and assists its members in seeking discharge upgrades, record corrections, education benefits, disability compensation matters and pension eligibility.

Given our current military environment, it is appropriate for Congress to both recognize and promote the efforts of our Veterans Service Organizations. Accordingly, I urge my colleagues to support this bill.

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3838.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HONORING INVENTION OF MODERN AIR-CONDITIONING BY DR. WILLIS H. CARRIER ON OCCASION OF ITS 100TH ANNIVERSARY

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 413) honoring the invention of modern air-conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

The Clerk read as follows:

H. CON. RES. 413

Whereas on July 17, 1902, Dr. Willis H. Carrier submitted designs to a printing plant in Brooklyn, New York, for equipment to control temperature, humidity, ventilation, and air quality, marking the birth of modern air conditioning;

Whereas air-conditioning has become an integral technology enabling the advancement of society through improvements to the Nation's health and well-being, manufacturing processes, building capacities, research, medical capabilities, food preservation, art and historical conservation, and general productivity and indoor comfort;

Whereas Dr. Carrier debuted air-conditioning technology for legislative activity in the House of Representatives Chamber in 1928, and the Senate Chamber in 1929;

Whereas the air-conditioning industry now totals $36 billion on a global basis and employs more than 700,000 people in the United States; and

Whereas the year 2002 marks the 100th anniversary of modern air-conditioning: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress honors the invention of modern air-conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. TIERNEY) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution, H. Con. Res. 413.

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

There was no objection.

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

Mr. Speaker, I am pleased to have the House consider House Concurrent Resolution 413, important legislation introduced by my distinguished colleague (JOHN WALSH of New York). This resolution expresses the sense of the House of Representatives in honoring the invention of modern air conditioning by Dr. Willis H. Carrier on its 100th anniversary.

Only 1 year after graduating with a master's degree from Cornell University, Dr. Carrier submitted designs and

later installed the first modern air conditioning equipment. Installed in Brooklyn, New York, the air conditioner was designed to control indoor humidity and temperature.

When granted a U.S. patent for ''the apparatus for treating air,'' as it was called in 1906, Dr. Carrier became known as the ''father of modern air conditioning.'' The formula Dr. Carrier used to develop the modern air conditioner still stands today as the basis for all fundamental calculations for the air conditioning industry.

Air conditioning became the integral technology enabling the advancement of society through improvements to the Nation's health and well-being. Industries also grew with the new ability to control the temperature and humidity levels during and after production.

The invention of air conditioning has also improved areas such as film development, preservation of processed meats, medical capsules, textiles, and other products. In 1921, Carrier received a patent for the centrifugal refrigerator machine that became the first practical method for air conditioning large spaces. This single achievement paved the way for the upward expansion of cities, as well as bringing human comfort to hospitals, schools, office buildings, airports, hotels, and department stores.

Dr. Carrier debuted air conditioning technology for legislative activity in this very Chamber in 1928 and in the Senate Chamber in 1929. After World War II, the air conditioner began to be installed in homes across America. According to the Carrier Corporation, 10 percent of American homes were air conditioned by 1965. By 1995, more than 75 percent of American homes were air conditioned; and in some portions of the South, 90 percent of homes have air conditioning or central air systems. Now the air conditioning industry totals $36 billion on a global basis and employs more than 700,000 people in the United States alone.

Mr. Speaker, it is appropriate on this hot summer day that the House recognizes and honors the invention of modern air conditioning by Dr. Willis H. Carrier on its 100th anniversary.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. WALSH).

Mr. WALSH. Mr. Speaker, I thank my good friend and colleague, the gentleman from Connecticut, for yielding time to me, and also the gentleman from Massachusetts (Mr. TIERNEY) for bringing this resolution to the floor.

Mr. Speaker, as my colleague, the gentleman from Connecticut, pointed out, this Wednesday marks the 100th anniversary of the invention of the modern-day air conditioner by Dr. Willis Carrier, a New Yorker. Today I offer before the House, House Concurrent Resolution 413, recognizing this historic event.

Raised on a farm on the snowy eastern shore of Lake Erie in Angola, New York, the young Carrier grew up as an only child, raised by his grandparents and great aunt. Known for his superior problem-solving capabilities, Carrier would solve every complex problem he encountered by reducing it to its simplest form and solving each component one by one.

He once stated in a high school graduation essay, ''A man with the power of will could make himself anything he wished, no matter what the circumstances.'' These words would define the rest of Mr. Carrier's life.

Carrier entered Cornell University at Ithaca College in Ithaca, New York, on a 4-year scholarship, but he was forced to earn room and board by mowing lawns, stoking furnaces, and during his senior year, forming a co-op student laundry.

□ 1500

With a degree in mechanical engineering, he found a job at the Buffalo Forge Company in 1901 and he began designing heating systems to dry lumber and coffee. Carrier was soon made head of the company's department of experimental engineering. It was here that he solved his first problem in temperature and humidity control for the Sackett-Wilhelms Lithographing and Publishing Company in Brooklyn in 1902. Marking the birth of modern air conditioning, Carrier's device controlled temperature, humidity, ventilation and air quality.

In 1915, Carrier and six colleagues pooled together their life savings and founded Carrier Engineering Corporation in New York. In 1910 the company bought its first building in Newark, New Jersey and soon found its way back to our Empire State. In 1937 Carrier consolidated five plants on Geddes Street near my home in Syracuse. In 1947 Carrier moved to its present location on Thompson Road in the town of Dewitt, also in my congressional district. Today Carrier Corporation, the company that bears the founder's name, is a nearly $9 billion organization and remains the global leader in providing heating, cooling and refrigeration solutions in more than 172 countries around the world.

As an aside, my colleague from Connecticut (Mr. SHAYS) will appreciate this. As a Peace Corps volunteer in Nepal, the only night I spent in an air-conditioned room in about 2-and-a-half years was in a Carrier air-conditioned room in Kathmandu, Nepal.

The 43,000 worldwide employees of Carrier Corporation can be proud that they continue to carry on their founder's tradition of excellence by generating comfort wherever people work, live and play. Many of us take for granted the fact that air conditioning has become an integral technology, enabling the advancement of society through improvements to our Nation's health and well-being, manufacturing processes, building capacities, food preservation and general productivity and indoor comfort.

From its birth 100 years ago to today's $36 billion industry, employing 700,000 Americans, we can all be very proud of Dr. Carrier. He did indeed change history. I suspect that if he did not invent air conditioning, we would not be meeting in Washington today because they used to close the Capitol in the beginning of the summer and stay away long until late in the fall. This invention also may have created a tremendous upsurge in the amount of legislation passed by this body, so maybe all is not progress.

The Sistine Chapel in Rome is air-conditioned with Carrier air conditioning. Many great documents of this country are enshrined in museums and the air is conditioned also by Carrier air conditioning. Indeed, this building in which we meet today is also chilled by Carrier air chillers.

So in gratitude for all of that, I would ask unanimous support of H. Con. Res. 413 and I ask Members to join me in celebrating this 100-year anniversary.

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

Mr. Speaker, I rise only to say that we thank the gentleman from New York (Mr. WALSH) for bringing this matter before the House; and we, of course, agree that Mr. Carrier has a long and distinguished career and a great invention; and we obviously would support this resolution.

I add only in his memory the one thing we might concentrate on doing is concentrating more on research and develop to improve efficiencies. Through smart public policy we can reduce energy consumption by improving the energy standards and efficiency standards required of common appliances like air conditioners as well as refrigerators, photo copiers and fax machines. I think that would be a great testament to Mr. Carrier's life and his hard work. If we just applied those standards already on the books in this country, we would be estimated to save consumers some $150 billion in energy costs by 2020. In fact, if we really looked at our research and development monies, we will know and realize that they have decreased from $6.55 billion in 1978 to some $2 billion now in 1998.

In 1998 the President's Committee of Advisors on Science and Technology recommended that our research and development costs over 5 years be increased because right now they are not commensurate in scope or scale with the energy challenges and opportunities of the 21st century and those that they will present.

Again, I also add our voice to the congratulations of Dr. Carrier. I thank the gentleman from New York (Mr. WALSH) for bringing this forward and say we look forward to improving the efficiencies of technology like this so we continue to do better and better by our energy consumption.

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

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

Mr. Speaker, the invention of modern air conditioning has clearly changed

our country. Modern air conditioning fueled the post-war growth of sunbelt cities such as Miami, Phoenix, Las Vegas and Houston. The invention of modern air conditioning also led to the building of glass skyscrapers, shopping malls and pressurized modules for space exploration.

On this, the 100th anniversary of the invention of modern air conditioning, we truly honor Dr. Willis H. Carrier. Mr. Speaker, I urge all Members to support this concurrent resolution.

Mr. BOEHLERT. Mr. Speaker, I rise in support of House Concurrent Resolution 413, offered by Mr. WALSH, marking the centennial of Dr. Willis H. Carrier's invention of modern air-conditioning. I can think of no better place to recognize this accomplishment than in the House Chamber—first air-conditioned by Dr. Carrier in 1929—on a 90 degree July day.

For the past century, Carrier air conditioning and refrigeration systems have been keeping our offices and homes cool. The man responsible for this phenomenon is Carrier's founder, Dr. Willis Haviland Carrier. Born on a farm in Angola, New York in 1876, the only child had a humble upbringing yet possessed high hopes from the start. At the time he could not have known the worldwide impact his invention would create. It would boost industrial production. It would change the face of urban architecture, including providing comfort cooling to some of the world's most prestigious buildings. It would improve health care for millions. It would allow unimagined industries to flourish.

Today, Carrier Corporation, the company that bears the founder's name, is an $8.895 billion organization providing heating, cooling and refrigeration solutions in more than 172 countries around the world. The nearly 43,000 worldwide employees of Carrier Corporation create comfort wherever people work, live or play—from private residences and apartments to grand hotels; from sprawling factories to soaring office towers; from theme parks to centuries-old cultural centers. Overall, the air-conditioning industry totals $36 billion and employs more than 700,000 people in the United States.

One hundred years later, we benefit now more than ever from Dr. Carrier's invention. I urge my colleagues to pass the Resolution.

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 413.

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

A motion to reconsider was laid on the table.

CLARENCE MILLER POST OFFICE BUILDING

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4755) to designate the facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, as the Clarence Miller Post Office Building.

The Clerk read as follows:

H.R. 4755

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

SECTION 1. CLARENCE MILLER POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, shall be known and designated as the ''Clarence Miller Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Clarence Miller Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. TIERNEY) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

GENERAL LEAVE

Mr. SHAYS. 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. 4755, the bill under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 4755, introduced by our distinguished colleague from the State of Ohio (Mr. HOBSON), designates a post office in Lancaster, Ohio as the Clarence Miller Post Office Building.

Members of the entire House delegation from the State of Ohio are cosponsors of this legislation.

Mr. Speaker, this post office will recognize former Congressman Clarence Miller and his 5 decades of public service to the citizens of Lancaster, Ohio whom Congressman Miller served as a city councilman, mayor and U.S. representative. Born in Lancaster on November 1, 1917, Clarence Miller served 13 terms as a United States Congressman, from 1967 until 1993. Prior to his term in Congress, he was mayor of Lancaster from 1964 to 1966 and a member of the Lancaster City Council, 1957 to 1963.

Congressman Miller originally made his living as a utility company engineer before entering into public service.

Mr. Speaker, I urge adoption of H.R. 4755.

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

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

Mr. Speaker, as a member of Committee on Government Reform, I am pleased to join my colleague in consideration of H.R. 4755, a bill in fact to designate a facility of the United States Postal Service after Clarence Miller. Obviously the gentleman from Ohio (Mr. HOBSON) has introduced this bill. It enjoys great support, from my understanding, from the entire Ohio delegation. Not having been a Member of Congress when Mr. Miller was in fact serving, I do know that by reputation he served from 1966 until January of 1993. I am also informed that the former Representative Miller served on the Committee on Agriculture, Committee on Public Works and Transportation, and the Committee on Transportation and Infrastructure, on the 3 subcommittees of that group. He was well known as a budget watchdog because of his fierce dedication to fiscal responsibility.

Former Representative Miller is now retired but he is also active in his Lancaster community. He is a member of the First United Methodist Church, the recipient of numerous awards and honors in recognition of his untiring efforts to serve his fellow Ohioans.

Mr. Speaker, I urge the swift passage of this bill.

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

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. HOBSON).

Mr. HOBSON. Mr. Speaker, I rise today to ask for the House to approve the bill to deem the Lancaster, Ohio, post office for former congressman Clarence J. Miller, to recognize his years of public service to the citizens of Lancaster, Ohio.

Clarence Miller served the people of Lancaster and central Ohio for over five decades and for thousands of Ohioans he exemplified the proper role of a public servant.

Clarence was a true community leader who was committed to improving the lives of those he represented, whether it was in the Lancaster City Hall or the United States Congress. His vision and civic spirit have made lasting contributions to our area, and he truly deserves this honor.

Mr. Miller was born in Lancaster on November 1, 1917. After attending Lancaster public schools and receiving technical training in Scranton, Pennsylvania, Mr. Miller was employed as a utility company engineer.

He served as a member of the Lancaster City Council from 1957 to 1963 and as mayor of Lancaster from 1964 to 1966. In 1967, he was elected to the U.S. House of Representatives where he served until his retirement in 1993.

In Congress, Mr. Miller first served on the Committee on Agriculture and Committee on Public Works and Transportation. In 1973, he became a member of the House Committee on Appropriations and served on the Subcommittee on Foreign Operations; Subcommittee on Commerce, Justice, State; Subcommittee on Treasury, Postal Service and General Government; and Subcommittee on Defense.

Clarence also holds U.S. and Canadian patents for technical innovations he developed in his professional ability as an electrical engineer.

There are many in Congress and in Washington today with fond memories

of Clarence Miller. This legislation would provide a lasting tribute to this fine individual that would be most visible to those he served for so many years in Lancaster, Ohio.

I might say that Mr. Miller today lives in Lancaster, Ohio. He visits the office often and still takes part in trying to help make our community better.

So it is with deep appreciation that I thank the House for passing this piece of legislation today.

Mr. SHAYS. Mr. Speaker, I urge adoption of this measure.

Mr. PORTMAN. Mr. Speaker, as an original cosponsor of H.R. 4755, I rise in strong support of this bill to designate the post office in Lancaster, Ohio as the Clarence Miller Post Office Building. This building served as Clarence's district office while he served the people of Southern Ohio for 26 years as a member of the House of Representatives.

Clarence Miller is a native and lifelong resident of Lancaster, Ohio. He was born in 1917. He was the third of six children born to Clarence Miller, Sr., and Delores Lloyd Miller. He married his high school sweetheart, Helen Brown, on December 25, 1936, and they spent 50 happy years together until her passing in 1986.

Clarence has two children, Jacqueline and Ronald. He has five grandchildren, Tyler Williams, Todd Williams, Amy Jackson, Jennifer Smith, and Drew Miller and four great-grandchildren—Morgan, Connor, Drew and Grant. He has a surviving brother, Paul, a retired broadcaster and marketing executive in Cincinnati.

Clarence grew up during the Great Depression. He was the son of an electrician. Clarence and his brothers and sisters worked to help the family financially during those troubled times, and as a young boy he delivered papers for the Lancaster Eagle Gazette.

During high school he unloaded trucks after school at the Omar Bakery, often not returning home until after midnight, and then rising early the next morning to attend classes.

Clarence always prided himself on being a self-made man. Following high school he went to work digging ditches for the Ohio Fuel and Gas Co., now called Columbia Gas, and rose through the ranks to become a practicing electrical engineer. While continuing to work full time at Ohio Fuel, Clarence and his brother, Paul, along with their mother, started Miller Electric, a small retail and electric wiring business in Lancaster.

Clarence first become interested in politics in the 1950s when the Ohio Fuel and Gas Co. offered courses in civics to its employees to help provide them with a better appreciation of how government operates. Clarence found the subject so captivating that he himself started teaching those courses, and afterwards began thinking about entering politics.

His political career began in 1957, when he was appointed to fill an unexpired term as a member of the Lancaster City Council. He was elected to a full term, and then was elected mayor of Lancaster, receiving the largest plurality in the history of the city.

Clarence was first elected to the House of Representatives in 1966 and was elected each succeeding Congress by wider margins. Clarence and President George Herbert Walker Bush were members of the same freshman class. For six years Clarence served on the House Agriculture Committee and the Public Works and Transportation Committee, and then he was selected to serve on the powerful Appropriations Committee where he served for the next 20 years. Clarence was noted for his efforts to reduce federal spending during times of skyrocketing deficits. He originated the idea of offering 2-percent across-the-board reduction amendments to appropriations bills, which became known as the Miller Amendments.

Clarence always had a keen interest in technology, and was one of a handful of Members of the House to hold both United States and Canadian patents for technical innovations developed while he worked as an electrical engineer. Clarence successfully merged his technical background with his work in Congress. In 1977 he was appointed by the Speaker to be a member of the Technology Assessment Board of the Congress.

Clarence received many honors and awards including: honorary doctorate degrees from Marietta College in Marietta, Ohio, and Rio Grande College in Rio Grande, Ohio; the Phillips Medal of Public Service from Ohio University in Athens, OH; the National Associated Businessmen's ''Watchdog of the Treasury Award''; the Americans for Constitutional Action's ''Distinguished Service Award''; and the National Rifle Association's ''Legislator of the Year Award.''

He always took great pride in his work. He was not one to seek the public limelight. Clarence worked quietly and diligently over the years for our nation and for his constituents. He always said it is not important to get your name in the Washington Post or on the network news. Instead, you have to look after the people who sent you here to represent them, and to do what they think is best for the country as a whole.

Apparently Clarence's philosophy served him well, because he consistently defeated his opponents over the years by a better than 2-to-1 margin.

Mr. Speaker, I urge all members to vote for H.R. 4755 to honor Clarence Miller, a gentleman who served the people of Southern Ohio and our Nation very well in this chamber for 26 years.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and pass the bill, H.R. 4755.

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. SHAYS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

HONORING TED WILLIAMS

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 482) honoring Ted Williams and extending the condolences of the House of Representatives on his death.

The Clerk read as follows:

H. RES. 482

Resolved, That the House of Representatives honors the outstanding accomplishments of Ted Williams and expresses its deepest sympathies and condolences to the family of Ted Williams on his passing.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. TIERNEY) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 482.

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

There was no objection.

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

Mr. Speaker, I am pleased to have the House consider House Resolution 482, and I commend my distinguished colleague, the gentleman from Massachusetts (Mr. MARKEY) for introducing it. This resolution recognizes the enduring contributions, heroic achievements and dedicated work of Ted Williams.

Mr. Speaker, it is truly my honor to rise today to support this resolution that honors Ted Williams. Ted Williams is not only one of baseball's greatest hitters, he was also a member of this Nation's greatest generation. Many of his baseball exploits still stand today.

The last hitter to bat over .400, Ted approached that endeavor like anything else in his life, never taking a shortcut. Batting under .400 but rounded off to .400 going into the last two games of the 1941 season, Ted took to the field and went six for eight in a double header on the last day of the season, raising his average to .406, the last player to hit over .400. He led the American league in batting six times, slugging percentage nine times, and total bases six times, and runs scored six times. He won two triple crown titles and was named Most Valuable Player of the league twice. He was also named to the All Star Team 16 times. Yet Ted's love of country and duty to serve took him away from the game twice, once during the Second World War and again during the Korean War.

During the Korean War, he flew 39 combat missions and earned an Air Medal and two Gold Stars. During his baseball career Ted had always hoped that people would see him and refer to him as the greatest hitter who ever lived. He was the greatest hitter that ever lived. But today this House recognizes Ted Williams as also a Navy aviator, a Marine, and a great American who exemplified dedication and sacrifice in absolutely everything he did.

Mr. Speaker, I urge all Members to support this resolution.

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

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

Mr. Speaker, I want to just reiterate some of the points that my esteemed colleague from Connecticut made, who has to travel a little bit further to Fenway Park than some of us who live in Massachusetts. The points he made are worth noting, but we also have a number of young people in the House today observing this particular proceeding, and I hope that what they take away from this even more so than the feats accomplished on Fenway Park and on the baseball fields around this country are the facts that Ted Williams served his country in the military, as the gentleman from Connecticut (Mr. SHAYS) said, on two occasions. When he left the baseball field first was for World War II and, secondly, for the Korean Conflict. He served his country nobly there and was a hero and continued on beyond that. Even after he finished his baseball career, he provided invaluable assistance to the Commonwealth of Massachusetts and to others through his work and service for the Jimmy Fund, helping to eradicate cancer in children.

So for all the good deeds he did in baseball, he was a rounded individual who served this country, who has continued to serve his fellow man in a humanitarian way, with very serious issues of health. Besides that, he had some fantastic eyesight, a great athletic ability, was a terrific fishermen, and probably was the greatest hitter to ever live.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. MARKEY), an individual who is better known around the House of Representatives for his fowl shooting percentage, more so than his batting average, the dean of the Massachusetts delegation, and a great baseball fan.

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Mr. MARKEY. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. TIERNEY) for yielding me the time, and I thank the gentleman from Connecticut (Mr. SHAYS) for helping organize this tribute to Ted Williams.

As has already been said, he served 5 years in the military, 3 years in World War II, 2 years in the Korean war, each of those years at the prime of his baseball career.

We in Boston and many across the country believed that if he had not been forced because of the need to protect our country to actually play those five seasons that he would hold the record in just about every single offensive category of baseball statistics. That is how great a hitter he was. The amazing thing is that even though he missed 5 years, he is still near the top in so many of the important baseball categories.

When I was a boy growing up in Malden, Massachusetts, playing baseball for 3 or 4 or 5 hours a day, the one thing that I did at night was to lie there at night trying to go to sleep, dreaming of myself as Ted Williams, trying to hit Whitey Ford or Bob Turley or Don Larson or some other Yankee pitcher because we knew that of all of the people who we could call upon in order to protect us against the hated Yankees that Ted Williams was at the top of the list. And not only did I go to sleep dreaming that I was Ted Williams with that perfect swing, but I am sure that there were millions of others having the very same dream about their own baseball aspirations.

He not only was a great baseball player and a great patriot, but he was also a great fisherman. He is in the Fisherman's Hall of Fame. He, for over 50 years, was the living embodiment of the Jimmy Fund which is a fund which has been created up in Boston at the Farber Institute, which is now global in its reach which helps to treat cancer in children, which was his passion.

A lot of people say that Ted Williams reminds them of John Wayne; but in reality, John Wayne only played those parts in movies. John Wayne wishes he was Ted Williams, wishes that he had had the life, the career, the success that he had had in every single endeavor that he touched in his life.

If somebody says 406, everyone knows that Ted Williams hit that for batting average in 1941. There are so many things that we could talk about here today; but at bottom, this was a great man, a great American and someone who is deserving of all of the praise which he is receiving across this country, and I thank the gentleman from Massachusetts for yielding me the time.

Mr. TIERNEY. Mr. Speaker, we have no other speakers, and I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume. Again, I thank the distinguished gentleman from Massachusetts (Mr. MARKEY) for introducing this resolution and working so hard to bring it to the floor. Frankly, when he speaks, no one else needs to.

I also thank the gentleman from Indiana (Mr. BURTON), chairman of the Committee on Government Reform, and the gentleman from California (Mr. WAXMAN), the ranking member, for expediting its consideration. I ask all Members to support this resolution to express our condolences on Ted Williams' death and honor his awesome life and achievements.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in support of H. Res. 482 to honor and recognize the life of baseball legend Ted Williams. I would like to extend my condolences on his recent passing away on July 5, 2002. It is both fitting and proper to recognize Mr. Williams for both his on the field and off the field heroics. From his patriotism to his love for America's greatest past time, Ted Williams has touched the lives of millions.

Theódore Samuel Williams was born in San Diego, California on August 30, 1918. Immediately after high school graduation, he signed a contract with the San Diego minor league baseball team. There he played one and half seasons with the team until the Red Sox obtained him in 1937, where he finished his career in 1960. After one year with the Red Sox, it was clear that Williams was destined to be a star. Throughout his career, the ''Splendid Splinter'' was one of the few people to post a batting average over .400 for a season and is the last player to date to do so. Ted Williams achieved the ''Triple Crown'' twice for leading the league in batting average, home runs, and runs-batted-in. He won the American League's Most Valuable Player Award twice and led the Red Sox to the pennant in 1946. He was elected into the Baseball Hall Of Fame in 1966. In his career, he slugged 521 home runs with a batting average of .344. In almost 8,000 at-bats, he struck out only 709 times. Ted Williams once said, ''When I walk down the street and meet people I just want them to think 'There goes the greatest hitter who ever lived.' '' Few people would disagree with this statement.

Not only did Ted Williams play baseball with excitement, but he loved his country with a passion as well. Mr. Williams was dedicated to his country and served in the Marine reserves for nearly five years. He selflessly put his baseball career aside two times at the peak of his performance in order to serve his country in its time of need. While in the service, he flew bomber planes in both World War II and in the Korean War. Many called him a hero. Williams was a patron for America.

Ted Williams had no tolerance for anything but the best from his colleagues. His stubbornness and need for perfection helped Williams be the best at his trade, whether it be playing baseball, flying fighter planes, or fishing. Ted Williams will be missed. I ask my colleagues to join me in our condolences and remembrances of Ted Williams for his brilliant accomplishments, patriotism, and fantastic memories throughout the 20th century by voting in favor of H. Res. 482.

Mr. MCGOVERN. Mr. Speaker, I thank my colleague Mr. MARKEY for sponsoring H. Res. 482 honoring the great Ted Williams.

Ted Williams—the Splendid Splinter—dominated baseball throughout the 1940s and 50s. As the Boston Red Sox left fielder, he batted a lifetime .344, batted in 1,839 runs, had 2654 hits, and hit 521 home runs. Throughout this time, he won two Triple Crowns. However, it is his season batting average of .406 in 1941 that will forever live in the hearts of all baseball fans. No other player has hit over .400 for a season since.

Yet, if one asked Mr. Williams what he was most proud of in his life, he would say it was the time he spent fighting for this great nation. Mr. Williams spent five years—in the prime of his life and his baseball career—fighting in World War II and in the Korean War. Many often wonder how many more hits Williams would have had, had he not dedicated his life to the Navy and the Marines. And people throughout New England will remember Ted Williams for all the charitable work he performed for children.

Ted Williams spend 19 seasons with the Red Sox, 19 summers in Fenway Park. In a city where baseball is more than just a pastime, Ted Williams is an icon. A tunnel running

underneath the city of Boston is named after the Splendid Splinter—the first of many expected tributes and memorials. Baseball fans throughout New England and across the nation now join in mourning the loss of Ted Williams—the greatest hitter of all time and a man of great dignity and character.

And I think I speak for Red Sox fans everywhere in encouraging this year's team to win the World Series in Ted Williams' honor. A guy can always hope, Mr. Speaker.

Mr. Speaker, again I would like to thank Mr. MARKEY and my other colleagues in the Massachusetts delegation for sponsoring this resolution. I ask Members to support this bill.

Mrs. THURMAN. Mr. Speaker, I rise today to honor the life of a great American, Ted Williams and in strong support of a resolution that the House with my support passed earlier this afternoon.

I would also like to bring to my colleagues' attention legislation that I am introducing to name a post office in Hernando, Florida the ''Ted Williams Post Office Building.''

We all know about Mr. Williams' legendary baseball achievements, such as hitting .406 in 1941 and hitting a home run in his last at bat. We also know about his dedication to our country, which he showed by interrupting his baseball career TWICE, to serve in World War II and Korea.

However, I am her to talk about what Mr. Williams did for Citrus County in my district, where he lived from the mid-1980's until his passing earlier this month.

As most of you know, Mr. Williams was a fabulous fisherman, and he first came to Citrus County in 1950 for that reason. However, it wasn't until over 30 years later that he began to leave his mark on the County.

In 1982, Mr. Williams was named a marketing consultant for the Citrus Hills residential development, lent his name to the project and, most importantly, moved to the County shortly afterward. This helped bring thousands of transplanted New Englanders who followed his playing career to retire in Citrus County.

Mr. Williams put Citrus County in the national spotlight in 1994 with the opening of the Ted Williams Museum and Hitters Hall of Fame, which is located in Citrus Hills. The event brought plenty of celebrities to the area, such as Joe DiMaggio, Muhammad Ali and Bob Costas, who served as master of ceremonies.

The Museum would have an incredible effect on tourism in the area—which continues to this day. Despite his failing health, Mr. Williams appeared before 2,000 fans at the Museum's yearly hall of fame induction ceremony in February.

Everyone in Citrus County—baseball fans or not—had tremendous pride in the fact that one of the world's greatest baseball players lived in the area. However, he wasn't just a great ballplayer—he was a great American, and he left his mark on Citrus County.

The last day of the 1941 season, Mr. Williams was hitting .400 and was given the opportunity by his manager to sit out the game in order to preserve this monumental achievement. Of course, he did not sit, and finished going 6 for 8 in both games of a doubleheader.

Ted Williams would continue that dedication when he arrived in Citrus County. Indeed, the last player to bat over .400 batted 1.000 in Citrus Countys.

Mr. HOYER. Mr. Speaker, I rise today in support of House Resolution 482, legislation that honors one of baseball's finest players, and one of America's finest citizens, Ted Williams. I also want to commend the gentleman from Massachusetts, Mr. MARKEY for offering this fitting resolution.

Mr. Speaker, Ted Williams was respected by his peers, admired by his successors, and adored by his fans. His work-ethic was second to none, and he toiled day in and day out, dreaming that one day people would see him and remark: ''There goes the greatest hitter who ever lived.''

His wiry frame and pure talent earned him the nickname ''The Splendid Splinter,'' and Ted Williams never failed to live up to that reputation on the field.

Williams is best remembered for batting .406 in 1941. In the sixty years since that tremendous season, no one has approached the milestone.

That 1941 season typified Williams' supreme devotion to the sport of baseball. Before the final day of the season, Williams had secured a .400 batting average. Yet he refused to sit out that day's double-header, playing both games and batting 6 for 8, raising his average 6 points.

Ted Williams' dedication to the game of baseball was evident as he continued to excel at an age when most ballplayers would have long since hung up their cleats. At the age of 40, he added his sixth and final batting title to his long list of accomplishments, becoming the oldest player to ever lead the league in hitting.

Williams was also a master of dramatic finishes, as he closed out his career in Fenway Park with a home run in his last at-bat. It was a fitting end for Boston's greatest and most beloved baseball player of all time.

While Teddy Ballgame will always be remembered as a baseball player, some of his greatest accomplishments came off the field. Williams' devotion to baseball was matched only by his devotion to his country. He acted as a true role model and hero during a time of war, sacrificing three years in the prime of his career to serve in the United States Marines in World War II from 1943–1945. Seven years later, he again left the baseball diamond to serve his country, this time in the Korean War. And even though his time in the military undoubtedly cost him some of his best playing days, he never regretted his service. In fact, Williams often counted his enlistment as a Marine as one of his greatest accomplishments.

In addition to his heroic sacrifices as a Marine, Williams will be remembered as the first Hall of Famer to have the courage to insist upon the inclusion of Negro League stars in Cooperstown. And we will be forever grateful to Williams for his generous support of the Jimmy Fund, a local charity that aids the fight against cancer.

Mr. Speaker, when Ted Williams passed away on July 5th, America lost a baseball legend. But we also lost a man with courage, dedication, and desire rarely equaled. It was these qualities that allowed Ted Williams to accomplish his lifelong goal. For when Ted Williams, the Splendid Splinter, passed away, there was one phrase that was on everyone's lips: ''There goes the greatest hitter who ever lived.''

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the resolution, H. Res. 482.

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. SHAYS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONGRATULATING DETROIT RED WINGS FOR WINNING 2002 STANLEY CUP CHAMPIONSHIP

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 452) congratulating the Detroit Red Wings for winning the 2002 Stanley Cup Championship.

The Clerk read as follows:

H. RES. 452

Resolved, That the House of Representatives—

(1) congratulates—

(A) the Detroit Red Wings for winning the 2002 Stanley Cup Championship and for their outstanding performance during the entire 2001–2002 National Hockey League season; and

(B) all of the 16 National Hockey League teams that played in the postseason;

(2) recognizes the achievements of the Red Wings players, coaches, and support staff who worked hard and were instrumental in bringing the Stanley Cup back to the city of Detroit;

(3) commends the Carolina Hurricanes for a valiant performance during the playoff finals and for showing their strength and skill as a team; and

(4) directs the Clerk of the House of Representatives to transmit an enrolled copy of this resolution to—

(A) the Red Wings players;

(B) Head Coach Scotty Bowman; and

(C) President and team owner Mike Ilitch.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. TIERNEY) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 452.

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

There was no objection.

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

Mr. Speaker, I am grateful to have an opportunity to salute the Detroit Red Wings and will just point out that my statement was written by a staff member who does not even happen to be a Detroit Red Wings fan, but he has done a gracious job in preparing this statement.

Mr. Speaker, House Resolution 452, introduced by our distinguished colleague from the State of Michigan (Ms. KILPATRICK), congratulates the National Hockey League's Detroit Red Wings for winning the Stanley Cup for the third time in 6 years. The entire House delegation from the State of Michigan are cosponsors of this legislation.

Last month, the Detroit Red Wings defeated the Carolina Hurricanes in just five games to win the Stanley Cup Finals and bring the title back to, as the writer says, Hockeytown. En route to the finals, the Red Wings beat last year's Stanley Cup champions, the Colorado Avalanche, to clinch the Western Conference title.

The Red Wings' roster features such NHL superstars as team captain Steve Yzerman, Brett Hull, Sergei Federov, Chris Chelios, and goalie Dominik Hasek.

I would specifically like to congratulate Detroit Head Coach Scotty Bowman for his impressive leadership this season and throughout his frankly awesome career. Coach Bowman has been with the team since 1993, and he has guided the Red Wings to three Stanley Cup championships, including back-to-back wins in 1997 and 1998. Bowman is retiring from the NHL and thus closing out a truly remarkable career, during which he set many coaching records including a record nine Stanley cup championships during his tenure with the Montreal Canadians, the Pittsburgh Penguins, and now with the Detroit Red Wings.

Mr. Speaker, for these reasons, I urge adoption of House Resolution 452.

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

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

I rise to also support House Resolution 452 for consideration this afternoon. Obviously, all the things that the gentleman from Connecticut (Mr. SHAYS) has already mentioned are on my list of comments to make here on behalf of the gentlewoman from Michigan (Ms. KILPATRICK) and the other members of the Michigan delegation who, unfortunately, could not be here this afternoon to bring this matter forward and speak to it.

I do think it takes note again for the young people that are here that this is not just about winning and losing a hockey game, but more about the hard work and determination and teamsmanship that goes into a championship effort; and for that, the Red Wings are certainly to be congratulated for the skill, tenacity, and dominance with which they finished the regular season and then clinched the President's trophy.

They have done a great job. They deserve all the credit. For a Boston Bruins fan like myself, it is always difficult to understand that once again the Stanley Cup slipped away, but it went to a team who had a great year, was a very deserving; and we want to make sure that everybody acknowledges this important feat as well as the hard work of Mr. Bowman as the gentleman from Connecticut (Mr. SHAYS) said, the team captain and other players there.

Their whole delegation, I am sure all of Michigan, take great pride in the work that this team and the effort that they have made.

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

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

I think it says something that a Boston Bruins, one of the original six, and a New York Rangers fan are saluting the Detroit Red Wings. They have been an awesome team, remarkable players, and truly outstanding coach; and I will just say that given that some Members have not had the opportunity to speak, with some trepidation, I am going to ask for a rollcall vote and know that my House Members from different hockey towns will have the good nature and goodwill to make this a unanimous resolution.

Mr. TIERNEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. LEVIN), and we are honored to have in this body today a member of this body who takes great pride in being from Michigan.

Mr. LEVIN. Mr. Speaker, I appreciate my friend from Massachusetts yielding me the time.

I just want to say a few words about the Red Wings as someone who has been a fan for quite a few years. The Red Wings are for Michigan more than a hockey team, and I think that is the secret.

A lot of us do care they are a successful hockey team. Some of us go back to the days when we played and there were not any indoor rinks. Some of us who are Red Wings fans used to fool around with hockey on ponds, and sometimes because the winter was not long enough, falling in while we were playing hockey.

But as I said, the Red Wings really are much more than a hockey team and that has been especially true under the ownership of Mike and Marion Illitch. They understand what sports mean to Detroit and the whole metropolitan area in the State. They also understand, though, that sports can mean something more than just who wins and who loses.

□ 1530

And the Red Wings, I think, have such wonderful following because, especially under the Ilitches, and the coaches there, led by Scotty Bowman, there has been continuity. We have come to know the players. I must say, on some teams, the players change so much every year, it is hard to identify with them. But that has not been true of the Red Wings.

The team that won the championship and the Stanley Cup really melded together and became a family, taking in new members, and I think that gave us a sense of community and a sense, if I may say so, even of family. When Vladi Konstantinov was seriously injured, everybody rallied around him. And it is always a moving few moments when he rejoins the team for various events.

So I just wanted to come to the floor and to say, in tribute to the Red Wings, many thanks to all of the players, led by Steve Yzerman, the captain; to all of the coaches, led by Scotty Bowman; and to the entire Ilitch family, for making a sports team something more than a sports team. This wonderful group won the Stanley Cup, but they really also won the hearts of a lot of us in Michigan.

And if I daresay, as I close, to all my colleagues who have not been in the Detroit metropolitan area recently, there are more Red Wing flags flying from cars than you will see such flags anywhere else in America. If we who are candidates for office had just one-fiftieth of the flags that fly from the cars supporting the Red Wings, we could never lose an election. The Red Wings maybe can lose a Stanley Cup contest in future years, but they won it again this year and all of us from Michigan are very, very proud of them. And I thank the House for bringing up this resolution of congratulations.

Mr. TIERNEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from Michigan for his very thoughtful comments, and to say whether you are a Bruin fan, or Ranger fan, like Mr. TIERNEY and me, you can still be very happy to support this important resolution honoring the Detroit Red Wings.

Mr. DINGELL. Mr. Speaker, I would like to take this opportunity to congratulate the entire Detroit Red Wings organization for winning the 2002 Stanley Cup on June 13, 2002, and collecting their 10th Cup by defeating the Eastern Conference Champion Carolina Hurricanes. After 82 games, followed by perhaps the most grueling playoff setup in professional sports, the Red Wings proved once again that talent and experience could triumph over more youthful competition.

Marian and Mike Ilitch, the owners of the Red Wings and community leaders in Detroit, have once again returned Lord Stanley's Cup to "Hockeytown," where it rightfully belongs. I would like to thank the Ilitch family for their dedication to the city of Detroit, State of Michigan, and to all Red Wing fans.

Red Wing fans are indebted to retiring head coach Scotty Bowman, who has brought the Red Wings to the playoffs 7 times in the last 8 years, won three Stanley Cups in the past 6 years, and who, with this year's victory, has earned his ninth Stanley Cup victory, surpassing his mentor Toe Blake for the most championships in National Hockey League history. This is truly an amazing accomplishment and I wish him well in his retirement.

Finally, I express my congratulations to the Red Wing players for their incredible season, and for showing all of us how to perform under great pressure. I applaud the hard work

and dedication which made this victory possible, and would offer my personal appreciation on behalf of Michigan's 16th Congressional District, to Captain Steve Yzerman, Brett Hull, Igor Larionov, Brendan Shanahan, Lue Robitaille, Sergei Federov, Darren McCarty, Chris Chelios, Niklas Lidstrom, Dominik Hasek, Kris Draper, Jirri Fischer, Jesse Wallin, Uwe Krupp, Mathieu Dandenault, Pavel Datsyuk, Ladislav Kohn, Kirk Maltby, Boyd Devereaux, Fredrik Olausson, Steve Duchesne, Jason Williams, Maxim Kuznetsov, Manny Legace, Jason Elliott, Sean Avery, Jiri Slegr, and Tomas Holmstrom.

With the recent signing of Curtis Joseph and re-signing of Chris Chelios, I look forward to seeing another Stanley Cup Parade in Hockeytown next year!

Mr. BONIOR. Mr. Speaker, today I rise in congratulations of the 2001–2002 Stanley Cup Champion Detroit Red Wings.

Although history will be the final judge, the Detroit Red Wings are already being considered one of the greatest hockey teams ever assembled. Led by the winningest coach in NHL history, a team made up of truly great players—more than half a dozen prospective Hall of Famers and a rookie class with seemingly boundless potential—the Red Wings are a team that is greater than the sum of its parts. If there is one thing that can be said about the team, it's that they could never be counted out.

Throughout the year and the playoffs, the stars stepped up and led when leadership was needed, and when the veterans had difficulties, the rookies came through when it really mattered. Under Scotty Bowman, the Red Wings came together with an offense as quick and precise as a surgeon's scalpel, and a defense as tenacious as the octopus that we in Detroit have adopted as our symbol for the playoffs.

The Red Wings have shown themselves to be outstanding role models both on and off the ice. They embody the values of teamwork, discipline and dignity, and their involvement with the community has brought it together. For our young people becoming passionate about the sport of hockey, they couldn't look up to a better group of players.

And so today I join with my colleagues in congratulating the Detroit Red Wings for their Stanley Cup victory. This team has guts, determination and finesse. Sports Illustrated has called them the New York Yankees of Hockey, but I'm not so sure that's appropriate. They're the Detroit Red Wings of Hockey, and that speaks volumes more.

Ms. KILPATRICK. Mr. Speaker, I would like to thank the Representatives for bringing up H. Res. 452, a resolution that I, along with support from the entire Michigan delegation, introduced congratulating the Red Wings on a tremendous year that culminated in winning the 2002 Stanley Cup Championship.

As a native Detroiter, I am so proud of the Red Wings for bringing the Stanley Cup back to the City of Detroit and the State of Michigan. They showed true heart, dominance, skill, and tenacity throughout regular and post-season play in the National Hockey League. More importantly, they showed all of us that anything is possible with hard work, determination, and a strong team spirit. The Red Wings are true champions.

Thank you to head coach Scotty Bowman, who led the Red Wings to their third Stanley Cup under his leadership, with the back to back wins in 1997 and 1998. I wish, Mr. Bowman, ''the Winningest Coach in Hockey,'' all the best in his retirement and thank him for all that he has brought to this great sport. Congratulations to President and team owner Mike Ilitch and his wife, Marian, who have shown steadfast support for the team and the City of Detroit and have been owners of the Red Wings franchise since 1982. Their commitment to the team and the City rings true everyday.

For all hockey fans out there and for anyone that knows even a little bit about hockey, clinching the Stanley Cup is no easy feat. The Red Wings went through four grueling playoff rounds and defeated four very competitive and skilled teams to win the Cup, including the 2001 Stanley Cup Championships, the Colorado Avalanche in the Western Conference finals, and the valiant Caroline Hurricanes in the Stanley Cup finals.

The Red Wings faced strong opposition, but showed their true grit and skill every step of the way, getting stronger as each playoff series progressed. All the players on the Red Wings contributed to the team's success. Deservedly, each player will have his name engraved on the Stanley Cup, which is considered to be the most conveted sports trophy in North America.

I would like to thank my Michigan colleagues for cosponsoring this resolution. We congratulate the Detroit Red Wings on an awesome year. Way to go Red Wings! Hockeytown is proud.

Mr. DINGELL. Mr. Speaker, I would like to take this opportunity to congratulate the entire Detroit Red Wings organization for winning the 2002 Stanley Cup on June 13, 2002, and collecting their 10th Cup by defeating the Eastern Conference Champion Carolina Hurricanes. After 82 games, followed by perhaps the most grueling playoff setup in professional sports, the Red Wings proved once again that talent and experience could triumph over more youthful competition.

Marian and Mike Ilitch, the owners of the Red Wings and community leaders in Detroit, have once again returned Lord Stanley's Cup to ''Hockeytown,'' where it rightfully belongs. I would like to thank the Ilitch family for their dedication to the city of Detroit, State of Michigan, and to all Red Wings fans.

Red Wings fans are indebted to retiring head coach Scotty Bowman, who has brought the Red Wings to the playoffs 7 times in the last 8 years, won three Stanley Cups in the past 6 years, and who, with this year's victory, has earned his ninth Stanley Cup victory, surpassing his mentor Joe Blake for the most championships in National Hockey League history. This is truly an amazing accomplishment and I wish him well in his retirement.

Finally, I express my congratulations to the Red Wings players for their incredible season, and for showing all of us how to perform under great pressure. I applaud the hard work and dedication which made this victory possible, and would offer my personal appreciation on behalf of Michigan's 16th Congressional District, to Captain Steve Yzerman, Brett Hull, Igor Larionov, Brendan Shanahan, Luc Robitaille, Sergei Federov, Darren McCarty, Chris Chelios, Niklas Lidstrom, Dominik Hasek, Kris Draper, Jiri Fischer, Jesse Wallin, Uwe Krupp, Mathieu Dandenault, Pavel Datsyuk, Ladislav Kohn, Kirk Maltby, Boyd Devereaux, Fredrik Olausson, Steve Duchesne, Jason Williams, Maxim Kuznetsov, Manny Legace, Jason Elliott, Sean Avery, Jiri Slegr, and Tomas Holmstrom.

With the recent signing of Curtis Joseph and re-signing of Chris Chelios, I look forward to seeing another Stanley Cup Parade in Hockeytown next year!

Mr. KNOLLENBERG. Mr. Speaker, I rise today in support of congratulating the Detroit Red Wings for winning the 2002 Stanley Cup Hockey Championship.

As one of the Original Six hockey clubs, the Red Wings have proven time and time again that they are one of hockey's premiere franchises of all time. With their three to one victory over the Carolina Hurricanes in game five of the 2002 Stanley Cup Finals, the Wings clinched their third Stanley Cup in six years, totaling an impressive ten Cups since the team became a franchise in 1926. With a record like that, it makes sense that Detroit has come to be known as Hockeytown USA.

So congratulations and a special farewell go to Red Wing coach Scotty Bowman, who announced his retirement just before Steve Yzerman handed him the Cup after the final game. Congratulations also to Mike Illitch and Jimmy Devallano for putting this team together. Congratulations, obviously, to captain Steve Yzerman, to the playoff MVP Nicklas Lidstrom, to Brendan Shanahan, to goalie Dominik Hasek, and to all the members of this great club for bringing yet another of Lord Stanley's coveted chalices to Hockeytown. And congratulations to the Detroit fans that stood behind their team through it all. Mr. Speaker, we have done it again.

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the resolution, House Resolution 452.

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. SHAYS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

BLACKWATER NATIONAL WILDLIFE REFUGE EXPANSION ACT

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4807) to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Susquehanna National Wildlife Refuge, as amended.

The Clerk read as follows:

H.R. 4807

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 ''Blackwater National Wildlife Refuge Expansion Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Garrett Island, located at the mouth of the Susquehanna River in Cecil County, Maryland, is a microcosm of the geology and geography of the region, including hard rock piedmont, coastal plain, and volcanic formations.

(2) Garrett Island is the only rocky island in the tidal waters of the Chesapeake.

(3) Garrett Island and adjacent waters provide high-quality habitat for bird and fish species.

(4) Garrett Island contains significant archeological sites reflecting human history and prehistory of the region.

SEC. 3. AUTHORITY TO ACQUIRE PROPERTY FOR INCLUSION IN THE SUSQUEHANNA NATIONAL WILDLIFE REFUGE.

(a) ACQUISITION.—The Secretary of the Interior may use otherwise available amounts to acquire the area known as Garrett Island, consisting of approximately 198 acres located at the mouth of the Susquehanna River in Cecil County, Maryland.

(b) ADMINISTRATION.—Lands and interests acquired by the United States under this section shall be managed by the Secretary as the Garrett Island Unit of the Blackwater National Wildlife Refuge.

(c) PURPOSES.—The purposes for which the Garrett Island Unit is established and shall be managed are the following:

(1) To support the Delmarva Conservation Corridor Demonstration Program.

(2) To conserve, restore, and manage habitats as necessary to contribute to the migratory bird populations prevalent in the Atlantic Flyway.

(3) To conserve, restore, and manage the significant aquatic resource values associated with submerged land adjacent to the unit and to achieve the habitat objectives of the agreement known as the Chesapeake 2000 Agreement.

(4) To conserve the archeological resources on the unit.

(5) To provide public access to the unit in a manner that does not adversely impact natural resources on and around the unit.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. GILCHREST) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

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

I am pleased to present this legislation to the House of Representatives to expand the boundaries of Blackwater National Wildlife Refuge, which is located in my Congressional District in Maryland.

Garrett Island, which consists of approximately 198 acres, was the site of Maryland's second settlement in the 1600s. It is the only rocky island in the tidal waters of the Chesapeake Bay system, and it is a vital link between the Susquehanna River and the Chesapeake Bay. It also provides habitat to 44 different bird species, including eagles, common loons, tundra swans, and 14 kinds of ducks.

I have visited Garrett Island a number of times, and there is no question that its rich history, geographic location and wildlife resource values make it an excellent candidate for inclusion within the National Wildlife Refuge system. As a Nation, we can ill afford to allow unique places like Garrett Island to be lost forever.

While I was disappointed to hear the U.S. Fish and Wildlife Service's initial reaction to the idea was that it opposed its inclusion, I am pleased they will be visiting the island next month to evaluate its trust resources. I am confident that once a comprehensive review has been concluded, as promised by the end of the summer, the service will join me in enthusiastically urging the protection of Garrett Island.

The Cecil Land Trust has done everything they can to protect the important property, contributing $150,000 toward the purchase of the island. And based on our hearing, Federal acquisition costs would be less than $400,000, and little, if any, maintenance or personnel will be required for the future of this inclusion.

The Chesapeake Bay Foundation had it right when they wrote that steps must be taken to ensure protection of this largely unspoiled historical and geological gem. I would urge my colleagues to vote aye on H.R. 4807. This is an important and necessary inclusion in our National Wildlife Refuge system, which will celebrate its hundredth birthday next year.

This is exactly the type of place that Teddy Roosevelt had in mind when the unique system of public lands was created.

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

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

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

Mrs. CHRISTENSEN. Mr. Speaker, we on this side have no objection to this legislation that would authorize the Secretary of the Interior to acquire Garrett Island for its future inclusion as part of the Blackwater National Wildlife Refuge in Maryland.

Certainly the protection of the last undeveloped island in the lower reach of the Susquehanna River is a positive step toward preserving the remaining fish and wildlife habitat found near the headwaters of the Chesapeake Bay. I want to applaud the gentleman from Maryland (Mr. GILCHREST) for this bill and for his leadership on this subcommittee on this and many other issues.

The U.S. Fish and Wildlife Service has voiced some minor reservations concerning the legislation, as we have just heard. These concerns are mostly due to the administration's ongoing effort to reevaluate current land acquisition policies governing the refuge system. However, the technical changes made to the bill, I think, will help to address these minor concerns. And the relatively low cost of acquisition should warrant a new assessment of Garrett Island by the Fish and Wildlife Service. The island is deserving of the service's full and unbiased consideration.

H.R. 4807 is a noncontroversial bill. I also urge all Members to support this legislation to help protect fish and wildlife habitat in the Chesapeake Bay.

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

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume to mention just one other item.

There is a family in Cecil County, the Kilbys, that live and work on a dairy farm, and they have been strong supporters of the concept of Garrett Island being included in the National Wildlife Refuge system. There are broad and varied opportunities for this island to be included, and so I urge not only my colleagues to vote aye on this legislation, but I also urge the Interior Department, when they are visiting the island, to recognize those varied opportunities.

The United States often sends biologists, zoologists, ornithologists, you name it, to vast areas of the world to study ecosystems. We have in our back yard, here in Maryland, a magnificent Chesapeake Bay watershed ecosystem, and this island can be one of those facilities that will be included in what could be known as an island corridor in the Chesapeake Bay so that people from the University of Maryland or the Baltimore Zoo or the Baltimore Aquarium, or other universities and community colleges and even high schools do not have to travel to Brazil or Southeast Asia or regions of Africa to show their interns or their students the kinds of ecosystems that make communities drive. They can send them to the island corridor, Garrett Island being the jewel of that concept.

So I urge my colleagues to vote for this legislation. I also want to thank the gentlewoman from the Virgin Islands for her support and the staff for their work on this legislation.

Mr. GILCHREST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and pass the bill, H.R. 4807, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read:

"A bill to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge.".

A motion to reconsider was laid on the table.

HONORING AMERICAN ZOO AND AQUARIUM ASSOCIATION

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 408) honoring the American Zoo and Aquarium Association and its accredited member institutions for their continued service to animal welfare, conservation education, conservation research, and wildlife conservation programs.

The Clerk read as follows:

H. CON. RES. 408

Resolved by the House of Representatives (the Senate concurring), That the Congress recognizes and honors the American Zoo and Aquarium Association and its member institutions of zoological parks and aquariums for their dedicated service in animal welfare, conservation education, conservation research, and wildlife conservation programs.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. GILCHREST) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

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

Mr. Speaker, founded in 1924, the American Zoo Association is a nonprofit organization dedicated to the advancement of zoos and aquariums. AZA institutions draw over 135 million visitors annually and have more than 5 million zoo and aquarium members. These institutions teach more than 12 million people each year in living classrooms, dedicate an estimated $50 million annually to education programs, invest an estimated $50 million annually to scientific research, and support over 1,300 field conservation research projects in 80 countries.

AZA member institutions are a critical component in the conservation of marine mammals in the wild through broad-based education research and standing recovery rehabilitation programs.

Additionally, many AZA facilities and scientists collaborate with researchers from colleges, universities, and other scientific institutions to conduct studies important to species conservation and health. AZA facilities have developed species survival plans which are cooperative long-term breeding and conservation programs that provide many species with an insurance policy against extinction. Some of the species covered by these plans include all the great apes, Africa and Asian elephants, Siberian and Sumatran tigers, and black, white Sumatran and greater one-horned rhinos.

These cooperative conservation programs support both field and institutional research to ensure that these animals are carefully managed and maintain a healthy self-sustaining population that is genetically diverse and demographically stable.

AZA institutions across the United States have maintained high curatorial and veterinarian standards for zoos and aquariums in addition to supporting programs that protect, conserve, and restore wild animal populations.

Mr. Speaker, H. Con. Res. 408 commends the American Zoo and Aquarium Association for all the great work they have done, and I urge Members to support passage of this bill.

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

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

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

Mrs. CHRISTENSEN. Mr. Speaker, I rise also in support of this concurrent resolution recognizing the American Zoo and Aquarium Association for its outstanding role in the conservation of the world's biodiversity and for its advancement of zoos and aquariums here and abroad.

Collectively, AZA member institutions draw over 135 million visitors each year. This affords the AZA facilities a huge opportunity and responsibility to instruct the public on the need to protect and conserve the wonders of the natural world.

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The wide variety of public education and interpretive programs made available through AZA institutions admirably fulfills this mission, and I applaud the AZA for their important work towards developing the next generation of wildlife conservation.

In closing, H. Con. Res. 408 is noncontroversial, and I urge its adoption by the House.

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

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

Mr. Speaker, I thank the gentlewoman from the Virgin Islands and the staff on both sides of the aisle for supporting this legislation in recognizing all of those people, whether it is a tiny zoo in Cecil County, Maryland, or Salisbury, Maryland, or the magnificent aquarium in Baltimore, Maryland, to zoos and aquariums all across this country by trying to understand, and doing a pretty good job of it, of understanding the nature of the magnificence of where people fit into the natural environment on this blue planet.

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

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

Mr. Speaker, I thank the chairman of the subcommittee for the gentleman's leadership and the work he has done to accommodate the needs and unique considerations of the territories as we work on the Committee on Resources. We have no members of AZA, but we do have Coral World in St. Thomas, and I am hoping at some point in the near future they will be a member of this wonderful organization.

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

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

Mr. Speaker, the Virgin Islands is a beautiful place in the Caribbean; that is its own AZA.

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 408.

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

A motion to reconsider was laid on the table.

CELEBRATING 50TH ANNIVERSARY OF CONSTITUTION OF COMMONWEALTH OF PUERTO RICO

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 395) celebrating the 50th anniversary of the constitution of the Commonwealth of Puerto Rico, as amended.

The Clerk read as follows:

H. CON. RES. 395

Resolved by the House of Representatives (the Senate concurring), That the Congress celebrates the 50th anniversary of the Constitution of the Commonwealth of Puerto Rico.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. GILCHREST) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

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

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

Mr. GILCHREST. Mr. Speaker, I rise today in support of H. Con. Res. 395. The gentleman from Utah (Mr. HANSEN), the gentleman from West Virginia (Mr. RAHALL), and Resident Commissioner ANIBAL ACEVEDO-VILÁ worked together to compose this nonpartisan and status-neutral resolution celebrating the 50th anniversary of the constitution of the Commonwealth of Puerto Rico.

H. Con. Res. 395 celebrates the 50th anniversary of this important historical event in our Nation's history by listing some highlights Puerto Rico's local constitution went through in becoming adopted. The resolution is noncontroversial, and I ask Members to join me in its support.

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

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

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

Mrs. CHRISTENSEN. Mr. Speaker, H. Con. Res. 395 is a resolution authored by the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) in close collaboration and with the full support of both the chairman and ranking member, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL).

The gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) regrets that he is not here for the House consideration of the resolution commemorating the 50th anniversary of the constitution of the Commonwealth of Puerto Rico, but a long-standing commitment in his district this morning made it impossible for him to be here until later today. He has already submitted a statement for the RECORD on his support of this historic occasion.

I take this opportunity, also, Mr. Speaker to commend the resident commissioner, the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) for his work on this resolution. H. Con. Res. 395 commemorates the 50th anniversary of the constitution of the Commonwealth of Puerto Rico. Mindful of the spirited debate over Puerto Rico's political status, the resolution was crafted to be nonpartisan and status neutral.

The adoption of Puerto Rico's constitution began in 1950 with the enactment of the U.S. law which permitted Puerto Rico to draft its own constitution. A referendum held in March of 1952 ratified the work of a constitution convention 6 months in the making. In July 1952, Congress approved Puerto Rico's constitution, and it was thereafter signed by President Harry S. Truman as Public Law 82–447.

The relationship between Puerto Rico and the United States predates the adoption of their constitution. Their contribution to the diversity of the U.S. along with their economic and social development begins in 1898 and continues today. The constitution is but yet a milestone for Puerto Rico, and they look forward to greater political progress.

Mr. Speaker, Puerto Ricans living in my district, the U.S. Virgin Islands, and particularly my home island of St. Croix, have contributed significantly to the development of the Virgin Islands. They are now an integral part of the fabric of every facet of life in our community.

I am sure that all of the residents of the U.S. Virgin Islands join me in congratulating the esteemed Governor, Sila Calderon, and our neighbors, friends and oft times family, the people of Puerto Rico, on this 50th anniversary and wish them God's continued blessings not only during this celebration but as they continue to realize their dreams and aspirations for the future.

Mr. Speaker, I encourage Members to support this resolution. We look forward to expeditious consideration in the other body.

Mr. Speaker, I yield such time as he might consume to the gentleman from New York (Mr. SERRANO).

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

Mr. SERRANO. Mr. Speaker, I rise with utmost respect for my colleagues and with some sadness in my heart because I rise in opposition to this resolution. I do so because in our profession, perception is a strong weapon. And the perception of this weapon or the result will be that we are in fact celebrating the relationship between Puerto Rico and the United States. While that relationship has had some wonderful moments, it has never stopped, in my opinion, being a colonial relationship, in fact.

I do not think the Congress should at this moment or at any other moment celebrate and encourage continued colonial relationships. Now, why do I believe that Puerto Rico is a colony of the United States? Because while citizenship has been granted since 1917, the same rights as other American citizens have not been granted to the American citizens who live in Puerto Rico. I often startle some of my colleagues by reminding them that if any of us were to move back to Puerto Rico right now, we could not serve in Congress with a vote, we could not vote for Members of Congress, we could not vote for the President, or have full representation. Yet our citizenship supposedly would stay intact. I find it very difficult to do what I am doing, but I think it needs to be done so we can continue once and for all to discuss this issue and bring it to the front of the political discussion in this country.

A few years ago I joined with the gentleman from Indiana (Mr. BURTON) in the so-called Young bill, which I think was the first real attempt for our country to tell the place where I was born what to do about its political future. What the Young bill did was say here are your options, take a vote, and 180 days from the time you take the vote, we will respond. That bill passed the House, never passed the Senate. That is sad because that bill in my opinion would have put this thing in motion.

Mr. Speaker, it is clear today that Puerto Rico remains a U.S. territory subject to the absolute powers of the U.S. Congress under the territorial clause of the United States Constitution in spite of the level of internal self-government given by the U.S. Congress.

When in 1952 the Jones Act was replaced by Public Law 447, which is what we are celebrating today, which approved the constitution of Puerto Rico, the law governing Puerto Rico changed. However, the territorial relationship previously existing did not change at all. And a territory, as we all know, is neither a State of the Union nor a nation of the world. It is simply a colony. In fact, Puerto Rico holds the dubious distinction of being the oldest colony in the world, having been a colony of Spain for over 400 years until 1898 and now a colony of the U.S. for over 100 years.

To celebrate any colonial status is to promote and prolong it. And I cannot, and I refuse to do that, however benign this resolution may seem.

This Congress should not be celebrating nor promoting the continued colonialism of Puerto Rico, and it is time we did something about it. The United Nations recognizes two options for decolonization: Puerto Rico becomes the 51st State of the Union and joins the other States with full powers and responsibilities; or Puerto Rico because a sovereign nation unto itself and takes its place among other nations of the world.

Under separation, there is also the option for free association where Puerto Rico could negotiate with the United States, common currency, postal service, military service; but all negotiated as equals, not as it exists today.

Rather than celebrating and promoting this status, we should let the 4 million American citizens of Puerto Rico know that the only option real to them is not the present option, but the option of statehood or independence. Most importantly and most urgently, we must move forward to put an end to this colonialism that shames both our Nation and Puerto Rico and brings indignity to the over 4 million fellow citizens living in Puerto Rico.

Mr. Speaker, I come to this discussion as a person who feels emotion on both sides. I grew up in New York City since I was a little boy coming from Puerto Rico. I was born in Puerto Rico. I grew up in a State called New York. I know the dignity and strength and democracy of being a State. I grew up in an independent Nation called the United States. I know the dignity and strength of that. That is all I ask for the place I was born in.

Let me say for those on the island who may not care for these comments, I do not approach it as someone who was born there only. I approach it as a Member of the United States Congress who, looking at the Caribbean, says today, 2002, 104 years later, Puerto Rico should no longer be a colony of the United States.

I respect my colleagues, and I know that their intent is to celebrate the relationship. However, I have some problems, serious problems, with the relationship. Statehood or independence, that is the way to go.

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

Mr. Speaker, the constitution that we are celebrating the 50th anniversary of is really a milestone for Puerto Rico. As we have heard, this is but a step on their road to progress and a future status yet to be determined by the people of the Commonwealth of Puerto Rico. I appreciate the remarks of the gentleman and his sentiment on this issue.

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

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

I do want to say that the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) asked us to propose this resolution for the 50th anniversary of the constitution of Puerto Rico with the full intent of giving the people of Puerto Rico a great deal of dignity. It is about that that we are discussing this issue here this afternoon.

I urge my colleagues to vote ''aye'' on the resolution.

Mr. GILMAN. Mr. Speaker, while I do not have any objections to this resolution, it does not paint the complete picture regarding the status of Puerto Rico. H. Con. Res. 395, does not represent the views of the majority of our fellow citizens in Puerto Rico.

It is important that my colleagues are aware that most of our fellow citizens in Puerto Rico and many of our citizens of Puerto Rican descent do not share the sentiments of this resolution. Many of our constituents do not support continuation of Puerto Rico's current political status.

The constitution enshrined Puerto Rico's status as a U.S. territory. Its approval attempted to legitimize the status, but it was controversial from the start. This subject to many is visceral, and several years ago nationalists were so enraged by this often-divisive issue that they fired shots in this very chamber. Their violence was unjustified and reprehensible, and world events clearly show that resorting to violence to have your voice heard does not advance one's cause. Advocates of the constitution were disappointed with the final result of an effort that was intended to enable Puerto Ricans to choose a permanent, non-territorial status as well as draft a local constitution. It only accomplished the latter goal. In fact, the counsel to the governor at the time who had a significant role in drafting not only the laws that authorized and approved the constitution but the constitution itself, recently wrote that even the constitution was ''mauled'' in Congress. The counsel called the vents of fifty years ago that we rise to celebrate today ''a tawdry record.''

In fact, approving the equivalent of a state constitution for a territory was a democratic innovation in territorial governance at the time, even though Puerto Ricans were already electing their own governor as well as legislature.

The current governing arrangement is a sad anachronism in this era. It no longer has the support of our fellow citizens in Puerto Rico. A 12-year governor from the party that is generally associated with the current status wrote a few years ago ''all factions do agree on the need to end the present undemocratic arrangement, whereby Puerto Rico is subject to the laws of Congress but cannot vote in it.''

In the most recent referendum on the islands' status options, in December 1998, the current status received .06% of the vote. The party that has been associated with the current status abandoned that losing proposition—and never really wanted it.

Even the most ardent defenders of the status quo, like the current Governor, recognize that the current arrangement has had its day, although in careful words. The Governor recently said that ''fifty years ago'' the arrangement ''fared quite well when compared with the prevailing colonial arrangements then existing in the Caribbean. Half a century later there are areas where that is no longer the case.''

Mr. Speaker, with all due respect to the distinguished gentleman from the territory and the Governor who were elected with a plurality; they are not in a position to speak for the people of Puerto Rico on the issue. While a plurality is adequate for conducting day-to-day government functions, it is not enough to act on behalf of the islands on questions that can change the complete status of the territory. For issues of paramount importance a majority is required.

Puerto Rico has a tradition of handling all such questions on a tri-partisan basis. This resolution was not the subject of consultations with the two minority parties, which together represent a clear majority of the vote and the majority of citizens' views on status matters. It is important to note that spokesmen for the two parties have criticized the resolution because of the status that it symbolizes.

Mr. Speaker, while I do not object to H. Con. Res. 395, we should recognize that a majority of Puerto Ricans would not be pleased by our passage of this Resolution.

Mr. ACEVEDO-VILA. Mr. Speaker, I want to thank Chairman Hansen and Ranking Member Rahall and the leadership of both parties for their support of this Concurrent Resolution celebrating the 50th anniversary of the Constitution of the Commonwealth of Puerto Rico.

In order to fully appreciate the historical significance of the Constitution of the Commonwealth proclaimed in 1952, I will share with my colleagues some of the pertinent historical facts.

In 1917 Congress approved the Jones Act, conferring the US citizenship to all Puerto Ricans. While citizenship has always been and remains cherished by Puerto Ricans, the Jones Act did not provide increased local rule or a democratic process through which the people of Puerto Rico could exercise their right to self-determination.

While the Jones Act included a bill of rights, the central principle of a democratic system—consent by the governed—was non-existent in Puerto Rico. Puerto Rico was therefore treated at this time like a colony. For decades, the Puerto Rican people struggled to achieve self-determination, and democratic rule. After World War II, the colonial regime founded under the Jones Act became difficult to sustain in Puerto Rico and in Washington. In 1947 Congress responded to Puerto Rico's claim for democracy, by enacting the Elective Governor Act. This statute provided for the election, every 4 years, of the governor of Puerto Rico by the people of Puerto Rico.

There years later, with Public Law 600 of 1950, Congress began a process through which the people of Puerto Rico would exercise their right to self-determination by drafting their own constitution. It is important to note that Congress did not impose this Act upon the people of Puerto Rico, but rather it made an offer to Puerto Ricans that could be accepted or rejected. Section 2 of the Act provides: ''This Act shall be submitted to the qualified voters of Puerto Rico for acceptance or rejection through an island-wide referendum to be held in accordance with the laws of Puerto Rico. Upon the approval of this Act by a majority of the voters participating in such referendum, the Legislature of Puerto Rico is authorized to call a constitutional convention to draft a constitution for the said island of Puerto Rico.''

Puerto Rico accepted the offer and a constitutional convention drafted the new constitution and in March 1952, the people of Puerto Rico ratified it. Months later, the President signed Public Law 447, approving the Constitution of the Commonwealth. In that Joint Resolution, Congress expressed that Public Law 600 had been approved ''as a compact with the people of Puerto Rico.'' Finally, in July 25, 1952, Governor Luis Muñoz Marín proclaimed the Constitution of the Commonwealth.

This Constitution established a republican form of government, provided for a broad Bill of Rights that followed not only the US Constitution but also the Universal Declaration of the Rights of Man. This Constitution also provided for the election of all members of the legislature by the people.

As expected, democratic rule, paved the way for cultural growth and economic development. After 1952, under the Commonwealth status, Puerto Rican culture flourished, and a stronger sense of identity grew. Our symbols were brought back to our public landscape, our flag, our anthem, etc. The Commonwealth allowed Puerto Ricans to fully and freely express their identity and their pride. Moreover, under Commonwealth, our economic foundations have grown stronger and the relationship has been very beneficial for both Puerto Rico and the United States. Today Puerto Rico consumes more U.S. goods per capita than any jurisdiction in the world and represents the 9th largest market for U.S. goods in the world. In 1999, Puerto Rico purchased $16 billion worth of US products, which translates into over 320,000 jobs in the mainland U.S. Today I want my colleagues to recognize that Puerto Rico purchases more from the U.S. than much larger countries such as China, Italy, Russia and Brazil.

Clearly the Commonwealth Constitution has served well the people of Puerto Rico and the status of Commonwealth has benefited the United States.

While the Commonwealth alternative has won every referendum held on the Island since 1952, the issue of Puerto Rico's status is not settled. It is actually a highly divisive issue. As the representative of Puerto Rico in Congress I will continue working to make sure that the will of the people of Puerto Rico is heard and respected in Washington, and to make sure that any petition to improve the Commonwealth be properly addressed.

Notwithstanding the current debate of status in Puerto Rico, there is no doubt that the Constitution of the Commonwealth of Puerto Rico represents the greatest democratic achievement of the Puerto Rican people, in the 20th century. It is this historical achievement that we celebrate on July 25th.

The Commonwealth is the result of the pragmatic genius and the progressive spirit of a great generation of leaders in Puerto Rico and in the United States. I quote President Harry Truman on April 22, 1952, regarding the approval by Congress of the Puerto Rican Constitution: ''The Commonwealth of Puerto Rico will be a government which is truly by

consent of the governed. No government can be invested with higher dignity and greater worth than one based upon the principle of consent. The people of the United States and the people of Puerto Rico are entering into a new relationship that will serve as an inspiration to all who love freedom and hate tyranny. We are giving new substance to man's hope for a world with liberty and equality under law. Those who truly love freedom know that the right relationship between a government and its people is based on mutual consent and esteem. The Constitution of the Commonwealth of Puerto Rico is a proud document that embodies the best of our democratic heritage. I recommend its early approval by the Congress.''

Some fifty year have passed since Congress ratified the Constitution of Puerto Rico. I am very proud to represent my people and to recognize and celebrate this historic event through this resolution today. It is an honor to work with my colleagues in Congress and to celebrate with all Americans the Commonwealth Constitution and our ongoing commitment to democracy, liberty, progress and self-determination.

I thank my colleagues for their support of this Resolution.

Mr. RAHALL. Mr. Speaker, as the ranking Democrat on the Resources Committee I want to begin by thanking JIM HANSEN for his work in getting this important resolution celebrating the 50th Anniversary of the Constitution of the Commonwealth of Puerto Rico before the House of Representatives.

While it is true that Chairman HANSEN and I often have a difference of opinion when it comes to issues involving Puerto Rico, on the matter before us today we stand united.

I also want to commend the gentleman from Puerto Rico, Mr. ACEVEDO-VILÁ, for his diligence in bringing this measure to our attention, and working to have it considered by the House of Representatives in a timely fashion.

During my tenure in Congress, I've come to appreciate the passionate deliberations over Puerto Rico's future political status. Anyone who is familiar with this history will recognize how studious one must be in crafting legislation, or otherwise, that makes mention of Puerto Rico's political status. In this regard, I offer my deep appreciation to Mr. ACEVEDO-VILÁ for working collaboratively with both Chairman HANSEN and myself to compose a nonpartisan and status-neutral resolution recognizing this milestone for Puerto Rico.

It is times such as this occasion that we are given good cause to step back and appreciate all that the relationship between Puerto Rico and the United States has meant to each other over the years. The U.S. has benefitted from Puerto Rican achievements in business, the arts, government, and athletics. More importantly, the U.S. has been enriched by Puerto Rican history, culture, and language. I would also emphasize the in time of war the people of Puerto Rico have also shed their blood in defense of the United States of America.

For her part, Puerto Rico has capitalized on the access to economic opportunities provided to her from the U.S. relationship. The result of this, being a prosperous economy and society.

The relationship will be perfected. The determination of the people of Puerto Rico will make it so. I have a special fondness for the people of Puerto Rico. I have found them to be a hard working and diligent people with deep passions. Today, I congratulate the people of Puerto Rico on this anniversary and encourage my colleagues to support this measure.

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 395, as amended.

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. SERRANO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 4807, H. Con. Res. 408, and H. Con.Res. 395, the legislation just debated.

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

There was no objection.

NOTICE

Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5093, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

Mr. HASTINGS of Washington (during the Special Order of Mr. MCINNIS), from the Committee on Rules, submitted a privileged report (Rept. No. 107–577) on the resolution (H. Res. 483) providing for consideration of the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Mr. GEPHARDT) for today on account of official business in the district.

Ms. HARMAN (at the request of Mr. GEPHARDT) for today on account of attending a memorial service.

Ms. KILPATRICK (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. MASCARA (at the request of Mr. GEPHARDT) for today on account of personal reasons.

Mr. HASTINGS of Florida (at the request of Mr. GEPHARDT) for today and July 16 on account of personal reasons.

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. DEFAZIO) to revise and extend their remarks and include extraneous material:

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mr. SHOWS, for 5 minutes, today.

Mrs. THURMAN, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

The following Members (at the request of Mr. PORTMAN) to revise and extend their remarks and include extraneous material:

Mr. BURTON of Indiana, for 5 minutes, today and July 16, 17, and 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. JACKSON of Illinois to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $9,630.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on June 12, 2002 he presented to the President of the United States, for his approval, the following bills.

Number and Title

H.J. Res 87. Approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

H.R. 2362. To establish the Benjamin Franklin Tercentenary Commission.

H.R. 3871. To provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover.

ADJOURNMENT

Mr. McINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 34 minutes p.m.) under its previous order, the House adjourned until tomorrow, Tuesday, July 16, 2002, at 10 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7902. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modifying Procedures and Establishing Regulations To Limit the Volume of Small Red Seedless Grapefruit [Docket Nos. FV01-905-1 FIR; FV01-905-2 FIR] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7903. A letter from the Administrator, Farm Loan Program, Department of Agriculture, transmitting the Department's final rule — Streamlining of the Emergency Farm Loan Program Loan Regulations; Correction (RIN: 0560-AF72) received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7904. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Raisins Produced From Grapes Grown in California; Additional Opportunity for Participation in 2002 Raisin Diversion Program [Docket No. FV02-989-5 IFR] received June 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7905. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Vidalia Onions Grown in Georgia; Revision of Reporting and Assessment Requirements [Docket No. FV02-955-1 IFR] received June 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7906. A communication from the President of the United States, transmitting his requests for FY 2003 budget amendments for the Securities and Exchange Commission and for the Departments of Agriculture, Commerce, and Housing and Urban Development; (H. Doc. No. 107—243); to the Committee on Appropriations and ordered to be printed.

7907. A communication from the President of the United States, transmitting his request to make available funds for the disaster relief program of the Federal Emergency Management Agency; (H. Doc. No. 107—244); to the Committee on Appropriations and ordered to be printed.

7908. A letter from the Principal Deputy, Department of Defense, transmitting an annual report on the STARBASE Program for FY 2001; to the Committee on Armed Services.

7909. A letter from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule — International Banking Activities: Capital Equivalency Deposits [Docket No. 02-10] (RIN: 1557-AC05) received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7910. A letter from the Assistant General Counsel for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting the Department's final rule — Nonprofit Organization Participation in Certain FHA Single Family Activities; Placement and Removal Procedures [Docket No. FR-4585-F-02] (RIN: 2502-AH49) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7911. A letter from the Director, FDIC Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Prohibition Against Use of Interstate Branches Primarily for Deposit Production (RIN: 3064-AC36) received June 26, 2002; to the Committee on Financial Services.

7912. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-P-7610] received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7913. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations — received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7914. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-D-7523] received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7915. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Final Flood Elevation Determinations — received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7916. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Final Flood Elevation Determinations — received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7917. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations — received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7918. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Department's final rule — Technical Amendments to Rules and Forms Due to the National Securities Markets Improvement Act of 1996 and the Gramm-Leach-Bliley Act [Release Nos. 34-46106 and IC-25621] (RIN: 3235-AI53) received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7919. A letter from the Acting Assistant General Counsel for Regulations, Special Education and Rehabilitative Services, Department of Education, transmitting the Department's final rule — Rehabilitation Engineering Research Centers (RERC) Program — received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

7920. A letter from the Assistant Secretary of Labor for Mine Safety and Health, Department of Labor, transmitting the Department's final rule — Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners (RIN: 1219-AB28) received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

7921. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits — received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

7922. A letter from the Inspector General, Environmental Protection Agency, transmitting the Agency's Annual Superfund Report to the Congress for Fiscal 2001, pursuant to 31 U.S.C. 7501 note; to the Committee on Energy and Commerce.

7923. A letter from the Secretary, Department of Energy, transmitting the Department's report entitled, ''Fleet Alternative Fuel Vehicle Acquisition Report For Fiscal Year 2000''; to the Committee on Energy and Commerce.

7924. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to State Implementation Plan [GA-50; GA-53; GA-56; GA-58; GA-59-200230(a); FRL-7244-5] received June 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7925. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule -Approval and Promulgation of Implementation Plans Georgia; Approval of Revisions to State Implementation Plans [GA-49-200232(a); FRL-7244-7] received June 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7926. A letter from the Chief Financial Officer and Assistant Secretary for Administration, Department of Commerce, transmitting the Department's inventory of functions pursuant to the Federal Activities Inventory Reform Act of 1998; to the Committee on Government Reform.

7927. A letter from the Inspector General, Environmental Protection Agency, transmitting a report on the ''EPA's Inventory of Commercial Activities''; to the Committee on Government Reform.

7928. A letter from the Chairman, Federal Housing Finance Board, transmitting the semiannual report on the activities of the Office of Inspector General ending March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

7929. A letter from the Chairman, Federal Mine Safety and Health Review 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.

7930. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Pay for Administrative Appeals Judge Positions (RIN: 3206-AJ44) received June 21, 2002, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Government Reform.

7931. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Ballast Water Treatment Technology Demonstration Program; Request for Proposals for FY 2002 [Docket No. 020418091-2091-01] (RIN: 0648-ZB20) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7932. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin by Vessels Using Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands Management Area [Docket No. 011218304-1304-01; I.D. 051702C] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7933. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Atlantic Highly Migratory Species; Commercial Shark Management Measures [Docket No. 011218303-1303-01; I.D. 110501B] (RIN: 0648-AP70) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7934. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-81, -82, -83, and -87 Series Airplanes, Model MD-88 Airplanes, and Model MD-90-30 Series Airplanes [Docket No. 2001-NM-44-AD; Amendment 39-12176; AD 2001-07-10] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7935. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Ohio River Mile 34.6 to 35.1, Shippingport, Pennsylvania [COTP Pittsburgh-02-005] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7936. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations for Marine Events; Back River, Hampton, Virginia [CGD05-02-029] (RIN: 2115-AE46) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7937. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Fort Vancouver Fireworks Display, Columbia River, Vancouver, Washington [CGD13-02-009] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7938. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, California [COTP Los Angeles-Long Beach 02-010] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7939. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; Ports of Jacksonville and Canaveral, FL. [CGD07-02-060] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7940. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Regulated Navigation Area, Safety and Security Zones; Long Island Sound Marine Inspection and Captain of the Port Zone [CGD01-01-187] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7941. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations; Atlantic Avenue Bridge (SR 806), Atlantic Intracoastal Waterway, mile 1039.6, Delray Beach, FL [CGD07-02-062] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7942. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Ohio River Miles 269.0 to 270.0, Gallipolis, Ohio [COTP Huntington-02-007] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7943. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Silver Dollar Casino Cup hydroplane races, Lake Washington, WA [CGD13-02-007] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7944. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Port of Tampa, Tampa, FL [COTP TAMPA 02-046] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7945. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone Regulations; St. Croix, U.S. Virgin Islands [CGD07-02-052] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7946. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; San Juan, Puerto Rico [CGD07-02-047] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7947. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Buffalo River, Buffalo, NY [CGD09-02-029] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7948. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Racine Harbor, Lake Michigan, Racine, Wisconsin [CGD09-02-010] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7949. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Ohio River Miles 252.0 to 253.0, Middleport, Ohio [COTP Huntington-02-006] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7950. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30311; Amdt. No. 3007] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7951. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Calipatria, CA [Airspace Docket No. 01-AWP-18] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7952. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30314; Amdt. No. 3010] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7953. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30312; Amdt. No. 3008] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7954. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Athens, OH [Airspace Docket No. 01-AGL-17] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7955. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Air Tractor, Inc. Models AT-502, AT-502A, AT-502B, and AT-503A Airplanes [Docket No. 2002-CE-10-AD; Amendment 39-12764; AD 2002-11-03] (RIN: 2120-AA64) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7956. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777-200 and -300 Series Airplanes [Docket No. 2002-NM-38-AD; Amendment 39-12714; AD 2002-08-06] (RIN: 2120-AA64) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7957. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron, Inc. Model 205A, 205A-1, 205B, 212, 412, 412EP, and 412CF Helicopters [Docket No. 2001-SW-37-AD; Amendment 39-12737; AD 2002-09-04] (RIN: 2120-AA64) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7958. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200, -300, and -300F

Series Airplanes [Docket No. 2002-NM-133-AD; Amendment 39-12772; AD 2002-11-11] (RIN: 2120-AA64) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7959. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter Deutschland Model EC135 Helicopters [Docket No. 2001-SW-69-AD; Amendment 39-12762; AD 2002-11-01] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7960. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Security Considerations for the Flightdeck on Foreign Operated Transport Category Airplanes [Docket No. FAA-2002-12504; Amendment No. 129-33] (RIN: 2120-AH70) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7961. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company Model 390 Airplanes [Docket No. 2002-CE-19-AD; Amendment 39-12763; AD 2002-11-02] (RIN: 2120-AA64) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7962. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Aerospace LP Model Galaxy and Gulfstream 200 Airplanes [Docket No. 2002-NM-123-AD; Amendment 39-12755; AD 2002-10-09] (RIN: 2120-AA64) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7963. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30313; Amdt. No. 3009] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7964. 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 [CGD05-01-066] (RIN: 2115-AE84) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7965. A letter from the Chairman, Federal Maritime Commission, transmitting the Commission's final rule — Update of Existing and Addition of New Filing and Service Fees [Docket No. 02-05] received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7966. A letter from the Chairman, Surface Transportation Board, transmitting the Board's final rule — Arbitration-Various matters relating to its use as an effective means of resolving disputes that are subject to the Board's jurisdiction [STB Ex Parte No. 586] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7967. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Modification of Tax Shelter Rules III [TD 9000] (RIN: 1545-BA62) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7968. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — New York Liberty Zone Questions and Answers [Notice 2002-42] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7969. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Application of Employment Taxes to Statutory Stock Options [Notice 2002-47] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7970. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Tax on Prohibited Transactions [Rev. Rul. 2002-43] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7971. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Rev. Rul. 2002-40] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7972. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Amounts received under Accident and Health Plans (Rev. Rul. 2002-41) received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7973. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Health Reimbursement Arrangements (Notice 2002-45) received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7974. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Constructive Sales Treatment for Appreciated Financial Positions (Rev. Rul. 2002-44) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7975. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 2002 [Notice 2002-39] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7976. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Changes in accounting periods and methods of accounting (Rev. Proc. 2002-46) received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7977. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Qualified Pension, Profit-sharing and Stock Bonus Plans (Rev. Rul. 2002-45) received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMAS: Committee on Ways and Means. H.R. 4946. A bill to amend the Internal Revenue Code to provide health care incentives related to long-term care; with an amendment (Rept. 107–572). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3048. A bill to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska; with an amendment (Rept. 107–573). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3401. A bill to provide for the conveyance of Forest Service facilities and lands comprising the Five Mile Regional Learning Center in the State of California to the Clovis Unified School District, to authorize a new special use permit regarding the continued use of unconveyed lands comprising the Center, and for other purposes; with an amendment (Rept. 107–574). Referred to the Committee of the Whole House on the State of the Union.

Mr. ISTOOK: Committee on Appropriations. H.R. 5120. A bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107–575). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR of North Carolina: Committee on Appropriations. H.R. 5121. A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107–576). Referred to the Committee of the Whole House on the State of the Union.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 483. Resolution providing for consideration of the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107–577). Referred to the House Calendar.

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 Mr. RANGEL:

H.R. 5115. A bill to suspend temporarily the duty on Polymenthylpentene (TPX); to the Committee on Ways and Means.

By Mr. HASTINGS of Washington:

H.R. 5116. A bill to designate the facility of the United States Postal Service located at 608 2nd Avenue in Zillah, Washington, as the ''Sid Morrison Post Office Building''; to the Committee on Government Reform.

By Mr. YOUNG of Florida:

H.R. 5117. A bill making supplemental appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; to the Committee on Appropriations.

By Mr. SENSENBRENNER (for himself, Mr. SMITH of Texas, Mr. GOODLATTE, Mr. GEKAS, Mr. TAUZIN, Mr. COBLE, Ms. HART, and Mr. HYDE):

H.R. 5118. A bill to provide for enhanced penalties for accounting and auditing improprieties at publicly traded companies, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Financial Services, 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. ISSA:

H.R. 5119. A bill to make technical corrections in patent law; to the Committee on the Judiciary.

By Mr. BACA (for himself, Mr. SIMPSON, Mr. SABO, Mr. BURR of North Carolina, Mr. WALSH, Mr. TIAHRT, Mr. KELLER, Mr. MURTHA, and Mrs. MYRICK):

H.R. 5122. A bill to provide for the award of a gold medal on behalf of Congress to Arnold Palmer in recognition of his service to the Nation in promoting excellence and good sportsmanship in golf; to the Committee on Financial Services.

By Mr. HUNTER:

H.R. 5123. A bill to address certain matters related to Colorado River water management and the Salton Sea by providing funding for habitat enhancement projects at the Salton Sea, and for other purposes; to the Committee on Resources.

By Mr. LUTHER (for himself, Mr. OBERSTAR, Mr. RAMSTAD, Mr. PETERSON of Minnesota, and Ms. MCCOLLUM):

H.R. 5124. A bill to provide for the establishment of a National Organ Donor Registry, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GARY G. MILLER of California (for himself, Mr. RADANOVICH, Mr. MOLLOHAN, Mr. WICKER, Mr. BACHUS, and Mr. DUNCAN):

H.R. 5125. A bill to amend the American Battlefield Protection Act of 1996 to authorize the Secretary of the Interior to establish a battlefield acquisition grant program; to the Committee on Resources.

By Mr. PAUL:

H.R. 5126. A bill to prohibit the provision of Federal funds to the housing-related government-sponsored enterprises and to remove certain competitive advantages granted under law to such enterprises; to the Committee on Financial Services.

By Mr. SMITH of New Jersey:

H.R. 5127. A bill to amend title 38, United States Code, to provide for payment by the Secretary of Veterans Affairs of dependency and indemnity compensation to the surviving spouse of a deceased veteran who for at least one year preceding death had a combination of service-connected disabilities rated totally disabling that included a compensable service-connected cold-weather injury; to the Committee on Veterans' Affairs.

By Mr. ANDREWS:

H. Con. Res. 441. Concurrent resolution expressing the sense of the Congress that the Children's Internet Protection Act is constitutional as it applies to public libraries; to the Committee on the Judiciary.

By Ms. BROWN of Florida (for herself, Mr. ABERCROMBIE, Ms. BALDWIN, Mr. BLAGOJEVICH, Mr. BOEHLERT, Mrs. CAPPS, Mr. CAPUANO, Ms. CARSON of Indiana, Mr. FROST, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLT, Mr. HYDE, Mr. ISRAEL, Mr. JACKSON of Illinois, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK, Mr. KLECZKA, Mr. LAMPSON, Mrs. MCCARTHY of New York, Mr. MCDERMOTT, Ms. MCKINNEY, Mrs. MEEK of Florida, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Mrs. MORELLA, Mr. MURTHA, Mrs. NAPOLITANO, Mr. OWENS, Mr. PAYNE, Ms. ROS-LEHTINEN, Mrs. ROUKEMA, Mr. RUSH, Mr. TANNER, Mr. TOWNS, Mr. TRAFICANT, Mr. WATT of North Carolina, Mr. WAXMAN, and Ms. WOOLSEY):

H. Res. 484. A resolution expressing the sense of the House of Representatives with respect to epilepsy; to the Committee on Government Reform.

By Ms. DELAURO (for herself, Mrs. BIGGERT, Ms. MILLENDER-MCDONALD, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. BROWN of Florida, Ms. MCCARTHY of Missouri, Mrs. CLAYTON, Mrs. CAPPS, Mrs. MINK of Hawaii, Mr. FROST, Ms. WATERS, Mr. LARSON of Connecticut, Ms. WOOLSEY, Mrs. CHRISTENSEN, Ms. SANCHEZ, Ms. MCCOLLUM, Mrs. MALONEY of New York, Ms. PELOSI, Mr. BACA, Ms. KILPATRICK, Mr. GONZALEZ, Mr. ROTHMAN, Ms. DUNN, Ms. BALDWIN, Ms. CARSON of Indiana, Mr. FILNER, Ms. NORTON, Mr. PAYNE, Mr. KENNEDY of Rhode Island, Ms. WATSON, Mrs. JONES of Ohio, Mr. FOLEY, Mr. GRUCCI, Mrs. MEEK of Florida, Mrs. LOWEY, Mr. KILDEE, Ms. ROYBAL-ALLARD, and Ms. SCHAKOWSKY):

H. Res. 485. A resolution recognizing the importance of sports in fostering the leadership ability and success of women; to the Committee on Government Reform.

By Mr. SULLIVAN (for himself, Mr. OTTER, Mr. BRADY of Texas, Mr. RYUN of Kansas, and Mr. POMBO):

H. Res. 486. A resolution amending the Rules of the House of Representatives to establish a discretionary spending ledger and a mandatory spending ledger; to the Committee on Rules.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

327. The SPEAKER presented a memorial of the General Assembly of the State of Wisconsin, relative to Assembly Resolution No. 46 memorializing the United States Congress to take the following actions: to insist that the United States abide by the Anti-Ballistic Missile Treaty; to respect the 1996 ruling of the International Court of Justice on nuclear weapons; to ratify the CTBT; to fulfill all of the United States' pledges made at the May 2000 Nuclear NPT review; and to reject the national administration's ''Nuclear Posture Review''; to the Committee on International Relations.

328. Also, a memorial of the Legislature of the State of Kansas, relative to Senate Concurrent Resolution No. 1620 memorializing the United States Congress to adopt United States House of Representatives Concurrent Resolution No. 3 providing for a national holiday honoring Cesar Chavez and that this holiday be celebrated on Cesar Chavez's birthday, March 31; to the Committee on Government Reform.

329. Also, a memorial of the Legislature of the State of Wyoming, relative to a Joint Resolution memorializing the United States Congress to request the Bureau of Land Management to develop and implement a coordinated resource management plan for the Jack Morrow Hills area that allows multiple use in accordance with the Federal Land Policy and Management Act of 1972; to the Committee on Resources.

330. Also, a memorial of the Legislature of the State of Illinois, relative to House Joint Resolution No. 54 memorializing the United States Congress to authorize funding to construct 1,200-foot locks on the Upper Mississippi and Illinois River System; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 267: Mr. WYNN, Mr. LAHOOD, Mr. EHLERS, and Mr. BOOZMAN.

H.R. 664: Mr. HILLeary.

H.R. 858: Mr. KLECZKA.

H.R. 1037: Mr. HOEKSTRA.

H.R. 1109: Mr. GOSS.

H.R. 1122: Mr. CLYBURN, Mrs. CHRISTENSEN, Mrs. JONES of Ohio, Mr. KUCINICH, Ms. BROWN of Florida, Mr. OWENS, Mr. CUMMINGS, and Mr. FALEOMAVAEGA.

H.R. 1184: Mr. CALVERT, Mr. SHAYS, Mr. KANJORSKI, Mr. THOMPSON of Mississippi, and Mr. FRANK.

H.R. 1296: Mr. BROWN of Ohio and Mr. SWEENEY.

H.R. 1305: Mr. BAIRD.

H.R. 1425: Mr. MCGOVERN.

H.R. 1433: Mr. HOLT.

H.R. 1452: Mr. BROWN of Ohio.

H.R. 1475: Mr. PRICE of North Carolina.

H.R. 1541: Mr. FROST.

H.R. 1604: Ms. MCCARTHY of Missouri.

H.R. 1861: Mr. WEXLER.

H.R. 1990: Mrs. MALONEY of New York.

H.R. 2035: Mr. KANJORSKI.

H.R. 2322: Mr. BAIRD.

H.R. 2349: Mr. SPRATT.

H.R. 2380: Mr. FROST.

H.R. 2484: Mr. BACA.

H.R. 2638: Mr. PAYNE.

H.R. 2677: Ms. BALDWIN.

H.R. 2807: Mr. HULSHOF.

H.R. 2820: Mr. PASCRELL.

H.R. 3109: Mr. SOUDER, Mr. BAIRD, and Mr. BACA.

H.R. 3131: Mrs. THURMAN.

H.R. 3201: Mr. GEKAS.

H.R. 3320: Mr. MCHUGH and Mr. JONES of North Carolina.

H.R. 3360: Ms. MCCARTHY of Missouri.

H.R. 3368: Mr. STARK, Ms. DELAURO, Ms. BROWN of Florida, and Mrs. DAVIS of California.

H.R. 3388: Mr. WILSON of South Carolina and Mr. GRUCCI.

H.R. 3407: Mr. GALLEGLY.

H.R. 3469: Mr. BLAGOJEVICH, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. BONIOR.

H.R. 3552: Mr. FILNER and Mr. SANDERS.

H.R. 3580: Mr. KENNEDY of Minnesota.

H.R. 3612: Mr. NADLER.

H.R. 3771: Mr. KING.

H.R. 3831: Mr. BOEHLERT.

H.R. 3834: Mrs. MINK of Hawaii.

H.R. 3884: Mr. BERRY, Mrs. DAVIS of California, and Mrs. MCCARTHY of New York.

H.R. 3932: Mr. LUTHER.

H.R. 3945: Mr. PAYNE, Mr. ACEVEDO-VILA, Mr. BRADY of Pennsylvania, Mr. CONYERS, Mrs. CHRISTENSEN, Mr. FROST, Mr. KUCINICH, Mr. MCGOVERN, and Ms. BERKLEY.

H.R. 4010: Mr. LINDER and Mr. JEFF MILLER of Florida.

H.R. 4014: Mr. SAWYER.

H.R. 4025: Mrs. EMERSON.

H.R. 4026: Mr. RYAN of Wisconsin.

H.R. 4046: Mr. BONIOR.

H.R. 4066: Mr. MOORE.

H.R. 4075: Mr. POMEROY.

H.R. 4084: Mr. GEORGE MILLER of California and Ms. LEE.

H.R. 4098: Mr. SCOTT.

H.R. 4515: Mr. LAHOOD.

H.R. 4575: Mr. DIAZ-BALART and Mr. DINGELL.

H.R. 4582: Mr. TIBERI and Ms. RIVERS.

H.R. 4600: Mr. LEWIS of Kentucky, Mr. REGULA, Mr. KOLBE, Mr. SENSENBRENNER, Mrs. NORTHUP, Mr. WALSH, and Mr. LAHOOD.

H.R. 4643: Mr. CAPUANO.

H.R. 4646: Mr. DELAHUNT and Mr. ROTHMAN.

H.R. 4653: Mr. BENTSEN.

H.R. 4669: Mr. STARK.

H.R. 4693: Mr. ENGEL, Mr. FRELINGHUYSEN, Mr. SWEENEY, Mr. MATSUI, and Ms. BERKLEY.

H.R. 4701: Mr. HOYER, Mr. HASTINGS of Washington, Mr. STENHOLM, Mr. ENGEL, Mr. PRICE of North Carolina, Mr. BALDACCI, Mr. LEACH, Mr. BACHUS, Mrs. MYRICK, Mr. ROYCE, Mr. REYNOLDS, Mrs. BONO, Mr. SHAYS, Mr. SHUSTER, Mr. MCKEON, and Ms. NORTON.

H.R. 4711: Ms. SCHAKOWSKY.
H.R. 4715: Mr. BACA.
H.R. 4720: Mr. PRICE of North Carolina.
H.R. 4738: Mr. HALL of Texas and Mr. FOSSELLA.
H.R. 4748: Mr. MCDERMOTT, Ms. MCCOLLUM, Mr. WU, and Ms. MCCARTHY of Missouri.
H.R. 4760: Mr. GREEN of Texas.
H.R. 4764: Mr. GUTIERREZ, Mrs. NAPOLITANO, and Mr. BONIOR.
H.R. 4793: Mr. TOWNS.
H.R. 4840: Mr. PETERSON of Minnesota and Mr. HAYWORTH.
H.R. 4857: Ms. HARMAN and Ms. WATSON.
H.R. 4865: Mr. DOYLE.
H.R. 4939: Mr. SHOWS.
H.R. 4964: Mr. ENGLISH.
H.R. 4965: Mr. FLETCHER, Mr. LAHOOD, Mr. BALLENGER, Mrs. CUBIN, Mr. SHADEGG, Mr. COOKSEY, and Mr. RILEY.
H.R. 5022: Mr. CAMP and Mr. COSTELLO.
H.R. 5033: Mr. CALVERT, Mrs. NORTHUP, Mr. YOUNG of Florida, Mr. HEFLEY, Mr. PENCE, and Mr. BARR of Georgia.
H.R. 5047: Mr. DOYLE.
H.R. 5050: Mr. KOLBE.
H.R. 5064: Mr. BLUNT, Mr. PENCE, Mr. SOUDER, Mr. DELAY, Mr. RYUN of Kansas, and Ms. PRYCE of Ohio.
H.R. 5070: Mr. SKELTON, Mrs. CAPPS, Mr. WEXLER, and Mr. BARRETT.
H.R. 5076: Ms. SCHAKOWSKY.
H.R. 5081: Mr. LEWIS of California.
H.R. 5082: Mr. RAHALL.
H.R. 5090: Mr. RYUN of Kansas, Mr. OTTER, and Mrs. MYRICK.
H.R. 5095: Mr. MCINNIS.
H.R. 5100: Mrs. ROUKEMA.
H.R. 5107: Mr. DINGELL, Ms. KILPATRICK, and Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 5112: Mr. FROST and Ms. BROWN of Florida.
H.R. 5113: Mr. YOUNG of Alaska.
H.J. Res. 21: Mrs. CHRISTENSEN.
H.J. Res. 97: Mr. JACKSON of Illinois.
H. Con. Res. 60: Mr. LIPINSKI, and Ms. EDDIE BERNICE JOHNSON of Texas.
H. Con. Res. 114: Mr. RUSH and Ms. BERKLEY.
H. Con. Res. 127: Mr. KING Mr. NEAL of Massachusetts, Mr. WEXLER, Mr. MCNULTY, Mr. DAVIS of Illionis, Mrs. CHRISTENSEN, Mr. MCGOVERN, Mr. HONDA, and Ms. BERKLEY.
H. Con. Res. 182: Mr. FALEOMAVAEGA, Mr. PAYNE, Mr. ENGLISH, Mrs. CHRISTENSEN, AND MRS. JONES of Ohio.
H. Con. Res. 199: Ms. NORTON, Mr. BROWN of Ohio, Ms. LEE, Mr. LYNCH, Mr. STRICKLAND, Mrs. CHRISTENSEN, Mr. WATT of North Carolina, and Mr. BACA.
H. Con. Res. 269: Mr. LEVIN and Mr. SPRATT.
H. Con. Res. 291: Mr. ROTHMAN.
H. Con. Res. 349: Ms. SLAUGHTER, Mrs. CAPPS, and Mr. BONIOR.
H. Con. Res. 367: Mr. RYUN of Kansas, Mr. SMITH of New Jersey, Mr. PETRI, Mr. HAYES, and Mr. HUNTER.
H. Con. Res. 385: Mr. BACHUS.
H. Con. Res. 396: Ms. KAPTUR, Mr. PAYNE, Mr. ACEVEDO-VILA, Mr. BRADY of Pennsylvania, Mr. DAVIS of Illinois, and Mr. BACA.
H. Con. Res. 410: Mr. EHLERS and Mr. MEEKS of New York.
H. Con. Res. 439: Mrs. THURMAN, Mr. ROSS, Mr. SWEENEY, Mrs. EMERSON, Mr. WATTS of Oklahoma, Ms. KAPTUR, Mrs. BONO, and Mr. KILDEE.
H. Res. 50: Mrs. MEEK of Florida, Mr. HILLIARD, and Mr. CLYBURN.
H. Res. 126: Mr. FROST, Mrs. CHRISTENSEN, Ms. WATSON, Mr. KING, Ms. BROWN of Florida, Mr. SABO, Mr. OWENS, Mr. MCGOVERN, Ms. BERKLEY, and Mr. BACA.
H. Res. 253: Ms. BERKLEY.
H. Res. 410: Mr. GILMAN, Mr. LANTOS, Mr. MCGOVERN, Mr. ACKERMAN, Mr. DOYLE, Mr. BERMAN, and Mr. ENGLISH.
H. Res. 437: Mr. SCOTT, Mr. ISSA, Mr. PETERSON of Minnesota, and Mr. SMITH of Texas.
H. Res. 448: Mr. REHBERG, Mr. OSBORNE, Mr. HINOJOSA, and Mr. BACA.
H. Res. 460: Mr. KILDEE, Mr. KENNEDY of Rhode Island, and Mr. OWENS.
H. Res. 482: Mr. GEKAS and Mr. STEARNS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1577: Mr. LUCAS of Oklahoma.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 5093

OFFERED BY: MR. BLUMENAUER

AMENDMENT NO. 1: Add at the end, before the short title, the following new section:

SEC. ____. None of the funds appropriated or otherwise made available by this Act may be used to enter into any new commercial agricultural lease on the Lower Klamath and Tule Lake National Wildlife Refuges in the States of Oregon and California that permits the growing of row crops or alfalfa.

H.R. 5093

OFFERED BY: MRS. CAPPS

AMENDMENT NO. 2: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ____. None of the funds provided in this Act may be expended by the Department of the Interior to approve any exploration plan, any development and production plan, any application for permit to drill or to permit any drilling on Outer Continental Shelf Southern California Planning Area leases numbered OCS–P0443, OCS–P0445, OCS–P0446, OCS–P0449, OCS–P0499, OCS–P0500, OCS–P0210, OCS–P0527, OCS–P0460, OCS–P0464, OCS–P0409, OCS–P0396, OCS–P0397, OCS–P0402, OCS–P0403, OCS–P0408, OCS–P0414, OCS–P0319, OCS–P0320, OCS–P0322, OCS–P0323–A, OCS–P0426, OCS–P0427, OCS–P0432, OCS–P0435, OCS–P0452, OCS–P0453, OCS–P0425, OCS–P0430, OCS–P0431, OCS–P0433, OCS–P0434, OCS–P0415, OCS–P0416, OCS–P0421, and OCS–P0422.

H.R. 5093

OFFERED BY: MR. ISSA

AMENDMENT NO. 3: At the end of the bill (before the short title), insert the following:

SEC. ____. Of the funds appropriated in title I under the heading ''Insular Affairs—Assistance to Territories'', not more than $23,012,058 may be made available before September 30, 2003, for grants to the Government of American Samoa.

H.R. 5093

OFFERED BY: MR. ISSA

AMENDMENT NO. 4: At the end of the bill (before the short title), insert the following:

SEC. ____. Of the funds appropriated in title I under the heading ''Insular Affairs—Assistance to Territories'', not more than $22,012,058 may be made available before September 30, 2003, for grants to the Government of American Samoa.

H.R. 5093

OFFERED BY: MRS. MINK

AMENDMENT NO. 5: Page 74, after line 23, insert the following new section:

SEC. 142. To the Office of Insular Affairs, for partial reimbursement to the State of Hawaii for the costs incurred as a result of the Compact of Free Association from increased demands on educational and social services to migrants from the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, $10,000,000.

H.R. 5093

OFFERED BY: MR. MORAN

AMENDMENT NO. 6: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ____. None of the funds made available in this Act may be used to implement any sanction imposed by the United States on private commercial sales of agricultural commodities (as defined in section 402 of the Agricultural Trade Development and Assistance Act of 1954) or medicine or medical supplies (within the meaning of section 1705(c) of the Cuban Democracy Act of 1992) to Cuba (other than a sanction imposed pursuant to agreement with one or more other countries).

H.R. 5093

OFFERED BY: MS. NORTON

AMENDMENT NO. 7: Page 113, line 24, after the dollar amount, insert the following: ''(reduced by $5,500,000)''.

H.R. 5093

OFFERED BY: MR. SANDERS

AMENDMENT NO. 8: Page 95, line 14, insert ''(reduced by $3,000,000) (increased by $3,000,000)'' after ''$984,653,000''.

H.R. 5093

OFFERED BY: MS. SLAUGHTER

AMENDMENT NO. 9: Under the heading ''DEPARTMENTAL MANAGEMENT–SALARIES AND EXPENSES'' in title I, insert after the dollar amount on page 49, line 16, the following: ''(reduced by $9,000,000)''.

Under the heading ''NATIONAL FOREST SYSTEM'' in title II, insert after the dollar amount on page 76, line 13, the following: ''(reduced by $6,000,000)''.

Under the heading ''NATIONAL ENDOWMENT FOR THE HUMANITIES–GRANTS AND ADMINISTRATION'' in title II, insert after the dollar amount on page 114, line 18, the following: ''(increased by $5,000,000)''.

Under the heading ''CHALLENGE AMERICA ARTS FUND–CHALLENGE AMERICA GRANTS'' in title II, insert after the dollar amount on page 115, line 14, the following: ''(increased by $10,000,000)''.

H.R. 5120

OFFERED BY: MR. FLAKE

AMENDMENT NO. 1: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ____. (a) None of the funds made available in this Act may be used to administer or enforce part 515 of title 31, Code of Federal Regulations (the Cuban Assets Control Regulations) with respect to any travel or travel-related transaction.

(b) The limitation established in subsection (a) shall not apply to the issuance of general or specific licenses for travel or travel-related transactions, and shall not apply to transactions in relation to any business travel covered by section 515.560(g) of such part 515.

H.R. 5120

OFFERED BY: MR. FLAKE

AMENDMENT NO. 2: At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available in this Act may be used to provide any grant, loan, loan guarantee, contract, or other assistance to any entity (including a State or locality, but excluding any Federal entity) identified specifically by name as the recipient in a report of the Committee on Appropriations of the House of Representatives or

the Senate, or in a joint explanatory statement of the committee of conference, accompanying this Act unless the entity is also identified specifically by name as the recipient in this Act.

H.R. 5120

OFFERED BY: MR. MORAN

AMENDMENT NO. 3: At the end of title I of the bill, insert after the last section (preceding the short title) the following:

ADDITIONAL GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

SEC. 151. Section 620(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)(1)) is amended—

(1) in the first sentence, by striking the period at the end and inserting the following: '', except as needed to promote and facilitate commercial exports of agricultural commodities from the United States to Cuba.''; and

(2) in the second sentence, by striking the period at the end and inserting the following: '', except that any such embargo shall not apply with respect to the commercial export of any agricultural commodity or with respect to travel or financing (or other transactions) incident to the commercial marketing, sale, or delivery of agricultural commodities. As used in this paragraph, the term 'agricultural commodity' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978.''.

SEC. 152. Upon the enactment of this Act, any regulation, proclamation, or provision of law, including Presidential Proclamation 3447 of February 3, 1962, the Export Administration Regulations (15 CFR 730 and following), the Cuban Assets Control Regulations (31 CFR 515), and section 102(h) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6032(h)), that authorizes sanctions with respect to, prohibits, or otherwise restricts exports to Cuba or transactions involving exports to Cuba and that is in effect on the date of the enactment of this Act, shall not apply with respect to the commercial export to Cuba of agricultural commodities, with respect to travel or financing (or other transactions) incident to the commercial marketing, sale, or delivery of agricultural commodities, or with respect to the receipt of payment for agricultural exports.

SEC. 153. After the enactment of this Act, the President may not restrict the commercial exportation to Cuba of agricultural commodities—

(1) under the Export Administration Act of 1979; or

(2) under section 203 of the International Emergency Economic Powers Act.

SEC. 154. (a) TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000.—

(1) INAPPLICABILITY.—The Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX of H.R. 5426, as enacted into law by section 1(a) of Public Law 106–387, and as contained in the appendix of such Public Law) shall not apply with respect to commercial exports to Cuba of agricultural commodities.

(2) CONFORMING AMENDMENTS.—The Trade Sanctions Reform and Export Enhancement Act of 2000 is amended—

(A) in section 906(a)(2)—

(i) by striking ''export of agricultural commodities'' and inserting ''commercial export of agricultural commodities to Cuba, or with respect to the export of agricultural commodities''; and

(ii) by adding at the end the following: ''The commercial export of agricultural commodities to Cuba shall be allowed without the issuance of a specific license therefor.'';

(B) in section 908—

(i) by striking subsection (b);

(ii) in subsection (a)—

(I) by striking ''PROHIBITION'' and all that follows through ''(1) IN GENERAL.—'' and inserting ''IN GENERAL.—'';

(II) by redesignating paragraph (2) as subsection (b) (and conforming the margin accordingly); and

(IV) by redesignating paragraph (3) as subsection (c) (and conforming the margin accordingly); and

(iii) in subsections (b) and (c) (as redesignated), by striking ''paragraph (1)'' each place it appears and inserting ''subsection (a)''; and

(C) in section 910—

(i) in subsection (a), by striking ''The Secretary of the Treasury'' and all that follows and inserting ''The Secretary of the Treasury shall authorize travel to, from, or within Cuba for purposes of the marketing, sale, delivery, or financing of a sale of agricultural commodities to Cuba, and any related transactions thereto, without the issuance of a specific license therefor.''; and

(ii) in subsection (b)(2), by adding at the end before the period the following: ''or that does not relate to travel to, from, or within Cuba incident to the marketing, sale, delivery, or financing of a sale of agricultural commodities to Cuba, or any related transactions thereto''

(b) SANCTIONS UNDER CUBAN DEMOCRACY ACT OF 1992.—

(1) INAPPLICABILITY.—Section 1706(b) of the Cuban Democracy Act of 1992 (22 U.S.C. 6005(b); prohibiting certain vessels from entering United States ports) shall not apply with respect to vessels that transport agricultural commodities to Cuba on a commercial basis or that transport persons whose travel is incident to the delivery of agricultural commodities to Cuba on a commercial basis.

(2) CONFORMING AMENDMENTS.—Section 1705(b) of the Cuban Democracy Act of 1992 (22 U.S.C. 6004(b)) is amended—

(A) in the subsection caption by striking '', DONATIONS'' and inserting '', EXPORTS''; and

(B) by striking ''donations of food to nongovernmental organizations or individuals in Cuba'' and inserting ''commercial exports of agricultural commodities to Cuba''.

SEC. 155. Subparagraph (A) of section 901(j)(2) of the Internal Revenue Code of 1986 (relating to denial of foreign tax credit, etc., with respect to certain foreign countries) is amended by adding at the end thereof the following new flush sentence:

''Notwithstanding the preceding sentence, this subsection shall not apply to Cuba with respect to income or excess profits taxes paid to Cuba that are attributable to activities with respect to articles permitted to be exported to Cuba, or travel or financing (or other transactions) incident thereto that is permitted, by virtue of the enactment of the Treasury Department Appropriations Act, 2003. The preceding sentence shall apply after the date which is 60 days after the date of the enactment of this sentence.''.

SEC. 156. (a) STUDY.—The Secretary of Agriculture shall conduct a study of United States agricultural export promotion and credit programs in effect as of the date of enactment of this Act to determine if changes to current law are needed to improve the ability of the Secretary of Agriculture to utilize United States agricultural export promotion and credit programs with respect to the consumption of United States agricultural commodities in Cuba, and to otherwise enhance, assist, and remove any limitations on, commercial sales and other agricultural exports to Cuba.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study conducted under subsection (a).

SEC. 157. In this title, the term ''agricultural commodity'' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

H.R. 5120

OFFERED BY: MS. NORTON

AMENDMENT NO. 4: AT THE END OF THE BILL (BEFORE THE SHORT TITLE), INSERT THE FOLLOWING:

SEC. ____. None of the funds made available in this Act may be used to maintain the closure to public traffic of E Street, NW, in the District of Columbia, south of the White House.

H.R. 5120

OFFERED BY: MR. RANGEL

AMENDMENT NO. 5: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ____. None of the funds made available in this Act may be used to implement, administer, or enforce the economic embargo of Cuba, as defined in section 4(7) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114), except those provisions that relate to the denial of foreign tax credits or to the implementation of the Harmonized Tariff Schedule of the United States.

H.R. 5120

OFFERED BY: MR. RANGEL

AMENDMENT NO. 6: In title I, in the item relating to ''TAX LAW ENFORCEMENT'', after the aggregate dollar amount, insert the following: ''(increased by $9,000,000)''.

In title I, in the item relating to ''EARNED INCOME TAX CREDIT COMPLIANCE INITIATIVE'', after the aggregate dollar amount, insert the following: ''(reduced by $10,000,000)''.

H.R. 5120

OFFERED BY: MR. SANDERS

AMENDMENT NO. 7: At the end of the bill before the short title, insert the following new section:

SEC. ____. None of the funds appropriated by this Act may be used by the Internal Revenue Service for any activity that is in contravention of Internal Revenue Service Notice 96-8 issued on January 18, 1996, section 411(b)(1)(H)(i) or section 411(d)(6) of the Internal Revenue Code of 1986, section 204(b)(1)(G) or 204(b)(1)(H)(i) of the Employee Retirement Income Security Act of 1974, or section 4(i)(1)(A) of the Age Discrimination in Employment Act of 1967.

H.R. 5120

OFFERED BY MR. WYNN

AMENDMENT NO. 8: At the end of the bill (before the short title), insert the following new section:

SEC. ____. (a) CENTRALIZED REPORTING SYSTEM.—Not later than 180 days after the date of the enactment of this Act, each agency shall establish a centralized reporting system in accordance with guidance promulgated by the Office of Management and Budget that allows the agency to generate periodic reports on the contracting efforts of the agency. Such centralized reporting system shall be designed to enable the agency to generate reports on efforts regarding both contracting out and contracting in.

(b) REPORTS ON CONTRACTING EFFORTS.—(1) Not later than 180 days after the date of the enactment of this Act, every agency shall generate and submit to the Director of the Office of Management and Budget a report on the contracting efforts of the agency undertaken during the 2 fiscal years immediately preceding the fiscal year during

which this Act is enacted. Such report shall comply with the requirements in paragraph (3).

(2) For the current fiscal year and every fiscal year thereafter, every agency shall complete and submit to the Director of the Office of Management and Budget a report on the contracting efforts undertaken by the agency during the current fiscal year. Such reports shall comply with the requirements in paragraph (3), and shall be completed and submitted not later than the end of the first fiscal quarter of the subsequent fiscal year.

(3) The reports referred to in this subsection shall include the following information with regard to each contracting effort undertaken by the agency:

(A) The contract number and the Federal supply class or service code.

(B) A statement of why the contracting effort was undertaken and an explanation of what alternatives to the contracting effort were considered and why such alternatives were ultimately rejected.

(C) The names, addresses, and telephone numbers of the officials who supervised the contracting effort.

(D) The competitive process used or the statutory or regulatory authority relied on to enter into the contract without public-private competition.

(E) The cost of Federal employee performance at the time the work was contracted out (if the work had previously been performed by Federal employees).

(F) The cost of Federal employee performance under a Most Efficient Organization plan (if the work was contracted out through OMB Circular A–76).

(G) The anticipated cost of contractor performance, based on the award.

(H) The current cost of contractor performance.

(I) The actual savings, expressed both as a dollar amount and as a percentage of the cost of performance by Federal employees, based on the current cost, and an explanation of the difference, if any.

(J) A description of the quality control process used by the agency in connection with monitoring the contracting effort, identification of the applicable quality control standards, the frequency of the preparation of quality control reports, and an assessment of whether the contractor met, exceeded, or failed to achieve the quality control standards.

(K) The number of employees performing the contracting effort under the contract and any related subcontracts.

(c) REPORT ON CONTRACTING EFFORTS.—(1) For the current fiscal year and every fiscal year thereafter, every agency shall complete and submit to the Director of the Office of Management and Budget a report on the contracting efforts undertaken by the agency during the current fiscal year. Such reports shall comply with the requirements in paragraph (2), and shall be completed and submitted not later than the end of the first fiscal quarter of the subsequent fiscal year.

(2) The reports referred to in paragraph (1) shall include the following information for each contracting in effort undertaken by the agency:

(A) A description of the type of work involved.

(B) A statement of why the contracting in effort was undertaken.

(C) The names, addresses, and telephone numbers of the officials who supervised the contracting in effort.

(D) The cost of performance at the time the work was contracted in.

(E) The current cost of performance by Federal employees or military personnel.

(d) REPORT ON EMPLOYEE POSITIONS.—Not later than 30 days after the end of the current fiscal year and every fiscal year thereafter, every agency shall report on the number of Federal employee positions and positions held by non-Federal employees under a contract between the agency and an individual or entity that has been subject to public-private competition.

(e) COMMITTEES TO WHICH REPORTS MUST BE SUBMITTED.—The reports referred to in this section shall be submitted to the Committee on Government Reform of the House of Representatives and to the Committee on Governmental Affairs of the Senate.

(f) PUBLICATION.—The Director of the Office of Management and Budget shall promptly publish in the Federal Register notices including a description of when the reports referred to in this section are available to the public and the names, addresses, and telephone numbers of the officials from whom the reports may be obtained.

(g) AVAILABILITY ON INTERNET.—After the excision of proprietary information, the reports referred to in this section shall be made available through the Internet.

(h) REVIEW.—The Director of the Office of Management and Budget shall review the reports referred to in this section and consult with the head of the agency regarding the content of such reports.

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

(1) The term ''employee'' means any individual employed—

(A) as a civilian in a military department (as defined in section 102 of title 5, United States Code);

(B) in an executive agency (as defined in section 105 of title 5, United States Code), including an employee who is paid from non-appropriated funds;

(C) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service;

(D) in the Library of Congress;

(E) in the Government Printing Office; or

(F) by the Governors of the Federal Reserve System.

(2) The term ''agency'' means any department, agency, bureau, commission, activity, or organization of the United States, that employs an employee (as defined in paragraph (1)).

(3) The term ''non-Federal personnel'' means employed individuals who are not employees, as defined in paragraph (1).

(4) The term ''contractor'' means an individual or entity that performs a function for an agency under a contract with non-Federal personnel.

(5) The term ''privatization'' means the end result of the decision of an agency to exit a business line, terminate an activity, or sell Government owned assets or operational capabilities to the non-Federal sector.

(6) The term ''outsourcing'' means the end result of the decision of an agency to acquire services from external sources, either from a non-Federal source or through interservice support agreements, through a contract.

(7) The term ''contracting out'' means the conversion by an agency of the performance of a function to the performance by a non-Federal employee under a contract between an agency and an individual or other entity.

(8) The term ''contracting in'' is the conversion of the performance of a function by non-Federal employees under a contract between an agency and an individual or other entity to the performance by employees.

(9) The term ''contracting'' means the performance of a function by non-Federal employees under a contract between an agency and an individual or other entity. The term ''contracting'', as used throughout this Act, includes privatization, outsourcing, contracting out, and contracting, unless otherwise specifically provided.

(10)(A) Subject to subparagraph (B), the term ''critical for the provision of patient care'' means direct patient medical and hospital care that the Department of Veterans Affairs or other Federal hospitals or clinics are not capable of furnishing because of geographical inaccessibility, medical emergency, or the particularly unique type of care or service required.

(B) The term does not include support and administrative services for hospital and clinic operations, including food service, laundry services, grounds maintenance, transportation services, office operations, and supply processing and distribution services.

(j) APPROPRIATION.—There is appropriated $2,000,000 for fiscal year 2003 to carry out this section, to be derived by transfer from the amount appropriated in title I of this Act for ''Internal Revenue Service—Tax Law Enforcement''. The Director of the Office of Management and Budget shall allocate such amount among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

(k) APPLICABILITY.—(1) The provisions of this section shall apply to fiscal year 2003 and each fiscal year thereafter.

(2) This section—

(A) does not apply with respect to the General Accounting Office;

(B) does not apply with respect to depot-level maintenance and repair of the Department of Defense (as defined in section 2460 of title 10, United States Code); and

(C) does not apply with respect to contracts for the construction of new structures or the remodeling of or additions to existing structures, but shall apply to all contracts for the repair and maintenance of any structures.

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Senate

The Senate met at 12 noon and was called to order by the Honorable JON S. CORZINE, a Senator from the State of New Jersey.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, strong source of strength for those who stretch the human limits and go beyond, we praise You for courage to stand firm for truth as You have revealed it to us. Give us convictions that require Your courage. We know that courage is fear that has said its prayers. Here we are, Lord, relinquishing any fears that may cripple us in being bold leaders. We can take hold of courage because You have taken hold of us. You give us power to overcome rather than overreact. We accept the admonition of the psalmist: *Wait on the Lord, be of good courage, and He shall strengthen your heart. Wait, I say, on the Lord*—(Psalm 27:14).

Bless the women and men of this Senate as You solidify their convictions and then give them the gift of courage. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON S. CORZINE led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 15, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON S. CORZINE, a Senator from the State of New Jersey, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CORZINE thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, the Chair will announce that the time until 1 o'clock will be evenly divided between Republicans and Democrats, with the Republicans having the first hour and Democrats having the second half hour.

At 1 o'clock, we will again go to the resumption of the accounting reform bill, with 5 hours remaining under postcloture proceedings.

MEASURES PLACED ON THE CALENDAR—H.R. 4954, H.R. 4635, H.R. 5017

Mr. REID. Mr. President, it is my understanding there are three bills at the desk that have been read for the first time. They are H.R. 4954, H.R. 4635, and H.R. 5017.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I ask unanimous consent that it be in order, en bloc, for these bills to receive a second reading, but I object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, the clerk will read the titles of the bills.

The assistant legislative clerk read as follows:

A 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.

A bill (H.R. 4635) to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

A bill (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 fires.

The ACTING PRESIDENT pro tempore. Objection to further proceedings having been heard, the bills will be placed on the calendar.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first half of the time shall be under the control of the Republican leader or his designee.

The Senator from Wyoming is recognized.

THE USE OF SNOW MACHINES IN YELLOWSTONE NATIONAL PARK

Mr. THOMAS. Mr. President, I will take a few minutes to talk about an

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

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important issue specifically to Wyoming, the Yellowstone National Park. In a broader sense, it is an issue that affects all kinds of parks and Federal public lands. It has to do with the question of access to these lands. Particularly, I am very interested in national parks, having grown up just outside of Yellowstone. I served as chairman of the National Parks Subcommittee for a long time. So I am very interested in parks.

We are in the process of working on an issue that I think has broader implications. It is the ability to use snow machines to see Yellowstone National Park in the wintertime. It is something that has been done, of course, for a number of years, and certainly there have to be changes that take place with use, and, as people are involved, unfortunately, those changes have not taken place as much as they should. Now we find ourselves in a dilemma with efforts made to eliminate the opportunity for people to use these machines in the wintertime.

As I mentioned, I think the purpose of the park is to maintain the resource, and all of us would agree to that. It is one of the national treasures that we have. We spend a lot of time here on parks—to establish new parks, and so on.

The second purpose of having a park, of course, in addition to saving the resource, is to give the opportunity for the park's owners to enjoy it—the people of America. And of course it needs to be done in an orderly way so there is not a problem with destroying those resources.

As I mentioned, snow machines in Yellowstone Park have been used for a good numbers of years. They are limited to the roads that are prepared for snow machining. You cannot go off the road; you stay on those roads. That has been the rule through the years. They enter, basically, in three of the entryways that come into Yellowstone Park, which is fewer than there are in the summer.

Of course, the wildlife remains in the park in the winter, for a good part of the time at least, and so one of the problems or complaints has been that the idea of preparing the roads for the use by snow machines provides an exit for the buffalo, and they go into Montana. There are concerns about brucellosis, and so on, and they don't like to have that happen.

The fact is that the roads are going to be prepared for use, whether visitors can use them or others, because they have to be used by the rangers and the people who are in the park.

In any event, this issue kind of came to a head about 2, 3 years ago when the Clinton administration had prepared a regulation that there would be no more use of snow machines in the wintertime. Well, many of us do not agree with that. We think there can be ways in which snow machines can be managed so that they can be changed if they need to be, that would take away the problems of that exit, and rather than to eliminate them, we think there ought to be a way to change them.

Indeed, during the course of this time, there have been a number of changes being made, partly by the manufacturers. Of course, there can be a regulation and a standard as to how the machines would be allowed to reduce emissions they have had in the past. They would also reduce the noise, which has been something people have been concerned about.

So we are prepared—and the manufacturers are prepared—to go into the market with machines, probably four-cycle engines rather than two, that would change both the emissions and the noise.

As this went on, of course, as the Clinton administration pushed their regulation, there were lawsuits brought. Then there was a change in the administration. The original EIS that was done was extended, and we took action in the Congress to extend the use period for another couple of years, and another supplemental EIS was held so there could be some additional alternatives.

The alternatives, of course, could be: Continue as it is now; eliminate it entirely; allow for coaches rather than individual snow machines; or change the rule so there could be some combination of the two.

The time is down now pretty close to where there should be, in this month, as a matter of fact, a reestablishment of the options that would be available, any favored option by the administration.

I met recently with the superintendents of the two parks, both the Grand Teton and Yellowstone, and they are prepared to do that. I think they are prepared to favor the option that would allow for the changes to be made in the machines and also for additional noise, but they could potentially have limitations on the numbers that could travel.

It is kind of interesting because those who oppose it, of course, do not want to include any machines, regardless of the situation. There are now machines that have less emissions than an automobile. There are only about 600,000 of these machines and 1.6 million cars in the summer, so it is quite hard to figure out how they are going to do extensive damage.

As I mentioned, there was a lawsuit. The snowmobile manufacturers, the State of Wyoming, and others brought a suit over the ban last summer. The settlement was agreed to. It called for a supplemental EIS, which I mentioned, which now has been done, and it called for some reasonable and commonsense resolutions and changes to the debate.

The public process has been open. There have been lots of responses. Because the environmentalists organized it, they had more people against it send in a card than those who were for it, but those who really took time to examine the issue and come up with alternatives, that was pretty evenly divided between those who want to continue and those who do not.

We are down now to making some decisions, and I think that is what we ought to do, and we are in this process.

I am disappointed that since then, a bill has been introduced in the Senate to eliminate snow machines in the park. It seems to me that is entirely inappropriate when we go through this whole process that has been laid out where people can be involved in this decision, and then suddenly we decide we are going to make the decision here. I hope that is not the case. I think we have had, as I said, an opportunity, and we can continue to talk about it and we ought to certainly let that process work its way through, which I think it will.

Everyone is for the protection of our parks. We all want to do that, and we can do that. We have had this sort of a problem in public lands, where you have to get a balance between usefulness and protection, and we can do that.

We are into another thing now on limiting roads in the forests. Obviously, there ought to be some limitation, but there also has to be access. It is not only access to people who want to hunt or do those kinds of things. I have received lots of communications from veterans, for instance, who say: Gosh, I cannot hike 5 or 10 miles to get there.

So we have to find a balance, and this is one of the areas in which a balance is necessary—not the only one. But I am saying that our resources of public lands and public uses also have to have access for a number of reasons. It also is an economic issue for people who live around the parks, as we do in Wyoming. So we hope we can go ahead with this and that the administration will continue to pursue the idea of having a resolution that provides for management, provides for protection, but provides people an avenue to still continue to enjoy the park.

I thought it was kind of interesting that one of the complaints about the noise—and I understand that—is people who go there do not want to have noise in the wintertime. Well, there is nobody there unless they go on machines because there is no place they can go without them. It is too far away. I wanted to raise that point. I feel very strongly about it, of course, as do many of us.

We certainly hope we can go on through this process and end up with an alternative that allows for the use of visitors to Yellowstone Park in the winter. It is a beautiful place. When one goes up there by Old Faithful and goes up the river, talk about the wildlife. One of the things that is sort of interesting is you drive along and if you want to stop, there is a buffalo right alongside the road in about 2 or 3 feet of snow, and they move right along in this little place pushing the snow out of the way so they can eat what is left

of the grass below. They are not concerned whether someone is there with a snow machine.

I see my friend from Alaska is present to speak, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

LEGAL SYSTEM REFORM

Mr. MURKOWSKI. Mr. President, I wish to indicate my concern about the recent ruling of the Ninth Circuit Court of Appeals in regard to the recitation of the Pledge of Allegiance in school as unconstitutional, noting its reference to ''one nation under God.''

I think we were all a bit surprised at that particular ruling. Perhaps for more years than I care to acknowledge, I have witnessed one bizarre decision after another arising from what I consider a very troubled court. During that time, a number of us in the Senate have worked to bring about fundamental reform in our legal system, including a wholesale restructuring of the Ninth Circuit.

I quote from the court's decision on the pledge, and this was Judge Alfred T. Goodwin who wrote:

> 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 without respect to religion.

I find that troubling because it is totally inconsistent. It tries to establish a parallel that there is virtually no difference whether we are under Zeus, under Vishnu, or under no god because, as is stated in the opinion, none of these professions can be neutral with respect to religion. This is a type of extremism carried out by individuals who want to eradicate any reference to religion in public life. It is clearly wrong. I am confident this ruling will be overturned. After all, it is quite common for a ruling from the Ninth Circuit to be overturned.

It is fair to take a few minutes and look at the record of the Ninth Circuit. Part of the problem is the Ninth Circuit is simply too large. It extends from the Arctic Circle to the Mexican border and spans the tropics from Hawaii, Guam, the Marianna Islands, the International Date Line, back to Montana and encompasses some 14 million square miles. It is the largest circuit by any measure. It is larger than the First, Second, Third, Fourth, Fifth, Sixth, Seventh, and Eleventh Circuits combined.

For these reasons and more, I am going to be introducing legislation in the balance of this Congress to split the Ninth Circuit. I will now be offering an amendment to all legislation for the remainder of this Congress to enact this commonsense legislation until such time as I can get a vote. I am joined by a number of our colleagues: Senators STEVENS, BURNS, CRAIG, GORDON SMITH, INHOFE, and CRAPO.

A little history will show this is not the first attempt to solve the crisis of the Ninth Circuit. I believe the need for change, however, has never been greater. The Ninth Circuit has grown so large and has drifted so far from prudent legal reasoning that sweeping changes are in order. Congress has already recognized that the change is needed. Back in 1997, we commissioned a report on structural alternatives for the Federal court of appeals. The commission was chaired by the former Supreme Court Justice, Byron R. White. They found numerous faults within the Ninth Circuit. In its conclusion, the commission recommended major reforms and a drastic reorganization of the court.

This legislation divides the Ninth Circuit into two independent circuits. The new Ninth would contain basically California. I understand there is an interest from Nevada to stay with California. Basically, we propose to leave the Ninth containing California and perhaps Nevada. A new Twelfth Circuit would be composed of the following: Arizona, Alaska, Hawaii, Idaho, Montana, Oregon, Washington, Guam, and the Northern Marianna Islands. Immediately upon enactment, concerns of the White commission would be addressed. A more cohesive, efficient, and predictable judicial group would emerge.

The circuit serves a population of more than 54 million, almost 60 percent more than are served by the next largest circuit. By 2010, the Census Bureau estimates that the population of the Ninth Circuit will be more than 63 million people. How many people does this court have to serve before the Congress of the United States realizes the Ninth Circuit is overwhelmed by its population? Congressional Members are not alone in advocating a split.

In 1973, a congressional commission on the revision of Federal Court Appellate System Commission, commonly known as the Hruska Commission, recommended the Ninth Circuit be divided. Also that year, the American Bar Association adopted a resolution in support of the split. In 1990, the U.S. Department of Justice endorsed legislation to split the Ninth Circuit in a surprising reversal of the official ''no position'' approach it had previously assumed. That is significant in relationship to a fair evaluation based on facts in the White commission on the need for splitting the court.

In 1995, a bill was reported from the Senate Judiciary Committee to go ahead and split the Ninth Circuit. There were objections. Most of those objections came from California and were simply based on the theoretical concept that California has been the headquarters of the Ninth, and there is a certain amount of prestige associated with having the largest court, so it is quite natural that there should be such a response from California. But it was not necessarily based on what is good for justice.

Supreme Court Justice Kennedy, a former member of the Ninth Circuit for 12 years, testified before a Senate Appropriations Committee and stated he has increasing doubts about the wisdom of retaining the circuit's current size.

Arguments in support of a divided Ninth Circuit are both qualitative and quantitative. The magnitude of cases filing in the Ninth Circuit creates a slow and cumbersome docket. In 2001, the caseload of the Ninth Circuit Court of Appeals was 10,342 filings.

I refer now to a chart which shows the filings of the court relative to the Ninth Circuit. We have the various circuits: The First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits. The Ninth has a population of 54 million; the caseload is 10,000 filings. The nearest would be the Eleventh Circuit. Clearly, the workload is significant in this court.

I refer you now to chart 2, which shows the current size of the court. This gives a better understanding showing the makeup of the Ninth Circuit covering Alaska, Washington, Idaho, Montana, Oregon, California, Nevada, and Arizona. It covers a population of 54 million. The caseload is 10,000 cases. The Ninth Circuit area is 1.4 million square miles.

It is interesting to reflect on the east coast. On the east coast, we have Maine, the eastern States, with their own court in red on the chart in the First Circuit. The green is the Second District. Third is in the raspberry color. The Fourth Circuit includes the Carolinas. We have five circuit courts covering a significant population. Clearly, this chart points out the difference between the size of the area of the Ninth and the caseload.

I will quote from various Justices relative to their views on splitting the court. It is imperative we reflect on those who have studied this issue and evaluated it on its merits.

From retired U.S. Supreme Court Chief Justice Warren Burger: I strongly believe the Ninth Circuit is far too cumbersome and it should be divided.

Justice Anthony M. Kennedy:

> I have increasing doubts and increasing reservations about the wisdom of retaining the ninth circuit in its historic size, and with its historic jurisdiction. We have very dedicated judges on that circuit, very scholarly judges. . . . But I think institutionally, and from the collegial standpoint, that it is too large to have the discipline and control that's necessary for an effective circuit.

We go to the Honorable Diarmuid O'Scannlain, a Ninth Circuit judge:

> We—the ninth circuit—cannot grow without limit. . . . As the number of opinions increases, we judges risk losing the ability to know what our circuit's law is. In short, bigger is not necessarily better. The ninth circuit will ultimately need to be split. . . .

Former Alabama Supreme Court Chief Justice Howell Heflin, one of our former colleagues:

> Congress recognized that a point is reached where the addition of judges decreases the effectiveness of the court, complicates the administration of uniform law, and potentially

diminishes the quality of justice within a Circuit.

Last, former U.S. Senator Mark O. Hatfield, State of Oregon:

The increased likelihood of intracircuit conflicts is an important justification for splitting the court.

These are gentlemen who have reviewed this issue and evaluated it objectively on its merits.

We see here the Supreme Court agrees that reform is needed. Here is a quote from Justice Scalia:

The disproportionate segment of this court's discretionary docket that is consistently devoted to reviewing ninth circuit judgments, and reversing them by lop-sided margins, suggests that this error-reduction function is not being performed effectively.

That is a pretty strong statement on the manner in which the Ninth Circuit has been conducting itself. As the reference is from Justice Scalia, he cites a disproportionate segment of the Supreme Court's discretionary docket that is devoted to reviewing Ninth Circuit judgments reversing them by lopsided margins. That is certainly a critique against the Ninth Circuit's performance.

Supreme Court Justice Sandra Day O'Connor:

With respect to the ninth circuit in particular, in my view the circuit is simply too large.

Finally, Supreme Court Justice John Paul Stevens:

In my opinion, the arguments in favor of dividing the circuit into either two or three smaller circuits overwhelmingly outweigh the single serious objection to such a change.

So there you have three Justices indicating that in their opinion the court is too large, there have been too many reversals coming to the Supreme Court. It is the criticism of the function of the court.

Let me continue because I think it is important to reflect on just what these figures are, relative to the filings and the increase. The number of filings continues to increase in the Ninth, from 8,415 in 1995 to 9,070 in 1998, and now 10,342 in the year 2001. We have seen the chart with the caseloads increasing. Here is a vivid comparison of the years, as this caseload jumps, particularly from 2000 to 2001, as one can see, in the red.

The ever increasing, expanding docket in the Ninth Circuit creates an inherent difficultly in keeping abreast of legal developments within its own jurisdiction, rendering inconsistency in constitutional interpretation within the court. Interestingly, the statistical opportunities for inconsistency on a 28-panel court calculate out to about 3,276 combinations of panels that could resolve any given issue.

I have had conversations with judges on the Ninth Circuit who have indicated the caseload is such that it is impossible for them to communicate among themselves on the activities going on within the court, as opposed to the usual process of judges having an opportunity to review other judges' opinions. As a consequence, the caseload is simply too big to allow, not for leisure, but it is a necessity, given the manner in which judges reflect upon their observation.

I would like to point out to my colleagues an article from the June 30 New York Times entitled ''Court That Ruled on Pledge Often Runs Afoul of Justices.'' I would like to read highlights. Obviously, there is too much material in it, but specifically I quote:

. . . judges on the court said that they did not have time to read all of the decisions it issued.

According to the commission's 1998 report, 57 percent of judges in the Ninth Circuit, compared with 86 percent of federal appeals court judges elsewhere, said they read most or all of their court's decisions.

That does not take place in the Ninth Circuit.

Critics say the Ninth Circuit's procedure for full-court review accounts for much of the reversal rate. All other circuits sit as one to hear full-court, or en banc, cases. The Ninth Circuit sits in panels of 11.

The procedure injects randomness into decisions. If a case is decided 6 to 5, there is no reason to think it represents the views of the majority of the court's 23 active members.

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One only needs to review the appallingly high reversal rate of Ninth Circuit cases to appreciate the severity of the problem.

During the 1995–1996 session, the Supreme Court overturned an astounding 83 percent of the cases heard from the Ninth Circuit—83 percent, Mr. President, a figure which is 30 percent higher than the national average reversal rate.

In the 1996–97 session alone, an astounding 95 percent of its cases reviewed by the Supreme Court were overturned. This number should raise more than a few eyebrows.

A split in the circuit would enable a more complete and sound review, thereby reducing the circuit's rate of reversal before the Supreme Court.

The uniqueness of the Northwest cannot be overstated. An effective appellate process demands mastery of State law and State issues relative to geographic land mass, population, native cultures that are unique to the relevant region, and particularly public land issues.

Presently, California is responsible for almost 50 percent of the appellate court's filings, which means that California judges and California judicial philosophy dominate judicial decisions on issues that are fundamentally unique to the Pacific Northwest.

Let me show on this chart the specifics of where all the cases come from. Nearly half of them—46 percent—come from California; Arizona, 7 percent; Alaska 1.3 percent; Hawaii, 1.9 percent; Idaho, Montana, Nevada, 5.6 percent.

Clearly, you see the significant overwhelming evidence that most of the cases, of course, are from California.

As a consequence, this need for greater regional representation is demonstrated by the fact that the east coast of the United States is composed of five Federal circuits. I wonder what the justification for that was. Clearly, it was justified in the sense of good judicial decision. But here we have on the west coast one court. The division of the Ninth Circuit would enable judges, lawyers, and parties to master a more manageable and predictable universe of relevant case law.

Establishing a circuit comprised solely of States in the West would adhere certainly to congressional intent. Alaska, Washington, Oregon, Hawaii, Idaho, and perhaps Nevada—although I understand Nevada, in the minds of some, is in the State of California. In any event, we share similar land-based populations and economics. Each State contains a high percentage of public land, a fairly comparable population, is financially dependent on tourism and is blessed with an abundance of natural resources.

In conclusion, while I may believe even more sweeping changes are in order, I strongly urge that this body address the crisis in our judiciary system. It is the 54 million residents of the Ninth Circuit who suffer from our inaction. These Americans wait years before their cases are heard, and, after those unreasonable delays, justice may not even be served by an overstretched and out of touch judiciary.

Congress has known about the problem in the Ninth Circuit for a long time. Justice has been delayed too long. The time for reform has come. I urge action on this legislation. I will be offering it on every bill until we obtain a vote on this issue.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CORZINE. Thank you, Mr. President.

ECONOMIC SECURITY FOR ALL AMERICANS

Mr. CORZINE. Mr. President, today I want to talk about the corporate scandals and financial problems we have been experiencing, and discuss how these problems highlight the importance of keeping the ''security'' in Social Security.

Last week, American financial markets plunged dramatically in response to the ongoing litany of corporate scandal and earnings restatements. The New York Times called the current 2½-year slide in the stock market the ''worst bear market in a generation.'' For ordinary investors, retirees, and near-retirees—last week, and certainly the year—the post-bubble environment has been a financial nightmare. What felt like a hard-earned, secure retirement for many became an open question filled with uncertainty for many

Americans. People are feeling compelled to go back to work and evaluate when they will retire, continue their careers, or cut back on their standard of living. They are experiencing a real sense of economic insecurity.

U.S. equity markets have lost nearly $7.5 trillion since the peak of the market—that is a mind-boggling number, frankly—and roughly $2.5 trillion in market value has been lost this year alone.

That loss has created a profound sense of insecurity among American families. We are seeing it in the real economy, we are seeing it in consumer confidence, and in a whole series of measures.

Trees don't grow to the sky. We sometimes lost track of that in the 1990s. Markets will not fall to zero either. But markets pose real risk and real challenges to the economic security of all Americans. That is, of course, why we must pass the accounting reform measure before the Senate, the Investor Protection Act. I hope we will do that today. We must also stand firm on the principles and elements of this legislation as we continue in the conference committee, which will try to piece together this strong piece of reform legislation with a fairly weak and tepid response in the House.

Obviously, investors are deeply affected by the wave of corporate scandals and financial restatements that infect too much of the corporate world: The so-called Enron Syndrome, WorldCom, Global Crossing, to Adelphia—the litany goes on, and, unfortunately, appears to be lengthening. I think we may just be at the head of this wave.

What we have is not merely a few bad apples but a systemic breakdown—a breakdown in our accounting system, a breakdown in our auditing structures, and, more fundamentally, a breakdown in the trust that is the foundation of our entire market-based economic system—trust in our corporate leadership and trust in the truthfulness of their word.

As a former businessman and a CEO, I must say I am ashamed of this wave of corporate corruption. As a Senator, I am appalled at the continuing attempt of some lobbyists and too many in public office to substitute a token response for a strong and effective governmental response.

Frankly, I was disappointed with President Bush's response last week, which was long on rhetoric and short on reform. Nothing was really said about the accounting industry conflicts, the conflicts with regard to research in investment banks, as Attorney General Spitzer has brought to light, the expensing of options, or about many other serious steps that will be needed to restore public confidence.

The President also failed to face up to the urgent need for major strengthening of the SEC, which today is drastically outgunned in the battle against corporate fraud. We need not define the SEC by who is leading the SEC, but we need to make sure we speak to the scope of the resources they have and the tools they have to deal with the issues that are involved in problems that have led to the crisis of consumer confidence that we have today.

Many of my colleagues have expressed similar concerns in recent days, and I believe the American people are watching us closely today, and will see how this process unfolds as the 107th Congress proceeds to completion, and whether we can put this strong reform legislation on the President's desk not only by passing a strong bill in the Senate but by making sure that when we get to conference, we put the public's interest ahead of special interests.

With that said, there is another very important question that is reinforced by these events. It is really where the dots connect and what I will focus on today. That is something I have been speaking about often here on the floor—the implications of a market meltdown and the President's drive to move toward the privatization of Social Security.

For anyone who has any doubt about the importance of providing a guaranteed safety net—a bedrock safety net—for America's retirees, recent events prove how that is absolutely necessary.

In just the past week, millions of Americans have seen the value of their 401(k)s plunge dramatically. For some, this decline will mean their retirement will have to be delayed. For others already retired, it will bring a real decline in their standard of living. I have read about and talked to people who will have to return to work. And for millions of Americans, recent events have highlighted the risk of relying on the stock market as the primary guarantor of retirement security.

We have always talked in this Nation about a three-legged stool to support people in their retirement: Certainly, individual savings, and some of that undoubtedly is well spent in the stock market; then there are pension benefits that are provided by employers; and then there has always been this bedrock of Social Security. That is the three-legged stool.

I think we need to make sure we reinforce that fundamental leg, Social Security. The purpose of Social Security is to ensure, despite the inherent uncertainties of the marketplace, that retirees who have contributed to our Nation will be guaranteed a basic level of retirement income. In other words, the Social Security system guarantees a degree of certainty, a certainty that will give people that sense of security.

Privatizing the program, as the Bush Social Security Commission has proposed, will undermine that security and tear apart a program that has been successful—enormously successful—for the American people for over 70 years. In fact, we have gone from where we had more than 50 percent of the American population retired and living in poverty down to almost 10 percent in recent years. In my view, moving away from that would be a mistake.

For 50 percent of working Americans, the whole of their retirement security is Social Security; they have no other means of retirement security. And for about 70 percent, the primary means of their retirement security is Social Security. So we are really talking about putting at risk something that I think is very vital for most Americans.

Ever since Franklin Roosevelt signed it into law, Social Security has been critically important for our Nation's seniors. Its importance has grown even more in recent years. That is because fewer and fewer Americans now have access to traditional defined-benefit pension plans. Those plans have declined from 175,000 programs in 1983 to just about 50,000 programs today. There has been a dramatic decline in these defined-benefit programs—ones that were secure. Increasingly, companies have switched from traditional plans, under which the company bears the investment risks, to defined-contribution plans, under which workers and retirees are themselves the risk takers—market risk takers.

Proponents of privatizing Social Security would compound those defined-contribution or 401(k) market risks by making Social Security benefits equally dependent on the uncertainties of the stock market. In my view, that would be a cruel betrayal of America's senior citizens and a denial of the promise of Social Security.

Consider what has happened to the employees at MCI. MCI is another telecommunications company that was merged into WorldCom about 2½ years ago. Before the takeover by WorldCom, MCI maintained a traditional defined-benefit plan; that is, the retirement security risks were borne by MCI and guaranteed by a Government institution called the Pension Benefit Guaranty Corporation. But that plan was abolished after WorldCom merged, except, by the way, for senior management; they continued to have defined-benefit programs for their retirements. Instead, MCI employees, as most WorldCom employees, were offered only one type of retirement program, a 401(k) plan.

I am not against 401(k) plans. They are a great idea for an additional element, on top of Social Security, a guaranteed benefit. But I think when we mix apples and oranges, we undermine economic security for Americans.

By the end of 1999, over 103,000 workers and retirees participated in this WorldCom 401(k) program. Their accounts at that time held more than $1.1 billion of WorldCom stock, about one-third of the plan's assets. At that time, the stock was worth $54 a share.

Today, that stock and their retirement funds are almost worthless. And we read in the paper today that WorldCom is about to file its bankruptcy petitions. After WorldCom's

massive accounting scam, the stock is not at $54 a share but 3 cents a share. The WorldCom stock in WorldCom 401(k) plans is not worth $1.1 billion, but it is now worth $20 million.

By the way, the 401(k) plan isn't guaranteed by the Pension Benefit Guaranty Corporation. It is actually imposing a cruel reduction in the security of all those 104,000 folks. I say, as an aside, this situation certainly argues for diversification in pension plans as well. The WorldCom plan started with about one-third concentration in WorldCom stock. It now has less than 1 percent in the WorldCom stock, but that is just because of the loss of value. It is really a very difficult situation for a lot of working Americans.

These are not just numbers or abstract entries on a corporate balance sheet or somebody's notification of what their 401(k) plan returns are, they represent the destruction of people's hopes and dreams for a secure retirement life, after working responsibly and contributing responsibly to their retirement.

Last week we had one WorldCom employee say:

> I put all my money in WorldCom stock, and I'm pretty sure I've lost everything. I knew what happened at Enron, but I thought we [at WorldCom] were different.

Management told them they were different, and, as most people, employees trusted the executives they worked for and wanted to be proud of their company and its leadership.

The experience of WorldCom employees, and those of hundreds of other companies—some of them, by the way, not falling prey to the whims of fraud but just simply market realities—shows that diversification is an absolute essential in pension reform. I hope we have that debate also on the floor.

When retirees lose all their money through no fault of their own, when nothing is left in their retirement portfolio, one thing, and one thing only, stands in the way of total economic devastation. Social Security. Because no matter the state of the stock market, Social Security is always there—not with enough to live in luxury but enough to make a real difference for millions who have little or no savings on which to rely. Social Security is the ultimate safety net. We must not let the administration shred it.

Privatization schemes would irresponsibly gamble with the guarantee of security for retirees, present and future. The average Social Security benefit last year was only about $10,000 a year—not the princely sums received by executives who have failed their companies—and not enough in some parts of our country to have a secure retirement. In New Jersey, for instance, $10,000 a year can only get you so far given the high cost of living in our part of the country.

Yet President Bush's Social Security Commission called for substantial cuts in guaranteed benefits. Cuts for some workers would amount to 25 percent and future cuts could exceed 45 percent. If anyone wants to apologize for privatization by disputing these numbers, I just encourage them to read the report of the nonpartisan actuaries at the Social Security Administration themselves. For more evidence, let me refer you to the recent economic analysis by Professor Peter Diamond of MIT and Dr. Peter Orszag of the Brookings Institution.

The Bush Commission parades its proposals as promoting choice. But if the Bush privatization plans were ever approved, seniors would have no choice. Their benefits would be cut. They would be cut if they shifted to privatized accounts, and they would be cut if they did not. The only choice is this: If they opted for privatized accounts, their guaranteed benefits would be cut more deeply.

The effective destruction of Social Security's guaranteed benefits recommended by the Bush Commission is bad economics and bad social policy. Fifty Senators have written the President urging him to publicly reject his Commission's proposals. So far, his response has been the same kind of silence we heard for months after the corporate scandals first broke with Enron.

Sometimes facts and reality ought to bring about a change in thinking for individuals, for corporations, and for an administration on important topics of the day.

Cutting guaranteed Social Security may have sounded like a good idea when the stock market was only going up, but now the fallacy of that assumption is clear to everybody. I hope the Bush administration will reconsider its plans to privatize and cut Social Security.

Let's not take the security out of Social Security.

Mr. President, before I leave the floor, I would like to take a few minutes to discuss a different matter but one that I believe is fundamentally important as we seek to address the structural problems facing our economy and what we need to face in the financial world to straighten out some of the problems we have. We need to better account for employee stock options.

This, too, is an issue that regardless of where one may have been historically, facts and reality ought to bring about a change in reasonable folks' thought with regard to options.

While the depth of liquidity and efficiency of our markets is still unrivaled, our markets need to make sure they are based on a presumption of integrity and accuracy in the information provided to the country. Our entire financial system depends on the broad availability of timely, truthful and transparent information. To secure that and restore the confidence of investors, it is absolutely urgent that we address this treatment of employee stock options.

The fact is, in many instances where we continue to allow this without an acknowledgment of what is going on, two things are happening: Earnings are overstated, and there is an enormous amount of dilution going on to the ownership of shares.

People may argue that you can derive this from financial statements and footnotes that are highly complicated even for the most sophisticated investor to read. But I argue that there is no common sense in making it as difficult to understand what the earnings statements of a company state and, more importantly, protecting investors from the dilution that comes from the whole premise of issuing more stock without having an understanding of when that is going to happen. This needs to be put in the context of the asymmetrical incentives it gives management that has undermined confidence in our corporate executives.

To be brief: We have a chance to address this issue in a very serious manner in the next few hours before we take our final vote on this legislation. I compliment Senator LEVIN and all those who stand to straighten out and put into responsible format what needs to be done with option accounting. We should do that not by writing option rules, at which I do not think the Senate has the capacity to be effective, but making sure that an independent body, which we will independently finance, has the ability to deal with a very complicated issue.

I hope with the help of all my colleagues, we can get around to straightening out something that, as we saw today in news reports, even corporate executives understand can lead to misallocation of resources and certainly misunderstanding of the performance of companies. We ought to get to real economic performance being reflected, not accounting performance. I am glad to see Coca-Cola take the steps they did. We need to move firmly and surely by passing the Levin amendment which would facilitate a solution that would make this permanent for everyone.

All three of these are important issues—accounting reform and corporate responsibility, the treatment of stock options, and protecting Social Security and rejecting privatization. The stakes are high for our economy. I hope we will move swiftly and certainly to reform and provide economic security to all Americans.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2673, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

Pending:

Edwards modified amendment No. 4187, to address rules of professional responsibility for attorneys.

Reid (for Carnahan) modified amendment No. 4286 (to amendment No. 4187), to require timely and public disclosure of transactions involving management and principal stockholders.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan, Mr. LEVIN, is recognized.

Mr. LEVIN. Mr. President, I wonder if I might inquire as to how much time I have on my allotted time under postcloture rules.

The PRESIDING OFFICER. The Senator has 36 minutes remaining.

Mr. LEVIN. I thank the Chair.

I will at a later time ask unanimous consent that the pending second-degree amendment be laid aside so I can offer a germane second-degree amendment relative to stock options.

My amendment, which is at the desk, would direct the independent accounting standards board to review the accounting rule on stock options and adopt an appropriate rule within 1 year.

It should not be necessary to seek unanimous consent. The whole purpose of our postcloture rules is to allow those of us who have germane amendments such as this one to offer that amendment, to have it voted on. It is a frustration of the clear intent of our rules to not allow germane amendments to be voted on after cloture is invoked.

We have a strict rule. It is called cloture. It ends debate. When cloture was invoked, I had pending an amendment which would have given the Securities and Exchange Commission greater powers to impose civil fines administratively. It is an important addition to SEC powers. They now have that power over brokers, but they don't have it over corporate directors. They don't have it over corporate managers. They ought to have the power to impose civil fines administratively—subject, of course, to appeal to the courts—relative to corporate directors and corporate officers.

That amendment, as relevant as it is to this bill, was frustrated when cloture was invoked and when all the time up to that vote was utilized so that my SEC amendment was not allowed to come up for a vote.

Now we are in postcloture. Now we are under postcloture rules. The question is whether or not the intent of those rules is going to be carried out, which is to allow those of us who have germane amendments to have a vote on those amendments.

The amendment on which I would like to have a vote cannot be voted on because there is a pending first-degree amendment and a pending second-degree amendment. So the second-degree amendment would have to be laid aside in order to allow a vote. As long as the opponents of this stock option accounting amendment don't allow the first- and second-degree amendments that are pending to come to a vote, we are foreclosed from offering germane amendments.

That is not the intent of our postcloture rule. I believe it is an abuse of the intent of our postcloture rule. I hope it will not happen here. I am hoping against hope that there will not be an objection to my unanimous consent request so that this most critical issue can be addressed by the Senate.

If we don't address this issue, it seems to me we are leaving a significant gap in the reforms we are struggling so hard to adopt to try to restore honesty to accounting rules.

In 1994, the Financial Accounting Standards Board issued a tentative rule which said that stock options should be expensed like all other forms of compensation. That is what they decided was the right thing to do.

Well, Congress intervened. The executives intervened strongly, beat back FASB with huge pressure, all set out in the FASB account of its rule. By the way, one of the most extraordinary documents I have ever read, as a matter of fact, in 24 years in the Senate, is that Financial Accounting Standards Board history of their effort to bring honesty to accounting for stock options, in their judgment, and how that effort was beaten back by pressure from executives and from Congress so that their very existence was at stake if they proceeded in a way which they thought was right. All set forth in the record. It is quite an amazing document.

So what FASB did was, they said: We can't survive if we do what we think is right. So what we will do instead is we will urge people to expense options. We will urge corporations to expense their options, but we will not mandate it.

FASB said: If you don't expense options, at least disclose the cost of the options as a footnote in your financial statements.

That was the way they decided to survive. This body voted, put some of the pressure on FASB, basically told them to leave stock option accounting alone. So we intervened on an accounting issue with a vote of something like 90 to 10 or thereabouts.

The executives weighed in. I was at one of the meetings in Connecticut when the executives weighed in heavily on this issue. So I saw the pressure that was brought to bear on what should be an independent accounting standards board.

Now we are doing something different in this bill. We are saying to the board that we are going to give you an independent source of funding. We are not going to make you dependent directly for your funding from the very people you are seeking to regulate through your accounting standards. So we are making some progress now by giving them an independent source of funding.

What my amendment would do is take what is the most significant post-Enron issue that is left open, which is accounting for these huge amounts of stock options that go mainly to executives, and direct this board that now has an independent source of funding to review—''review'' is the key word—this matter and make an appropriate decision within 1 year.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. LEVIN. I wonder if I can yield on the time of the Senator from Arizona, because time is so limited here that I am going to have very little. I think the Senator has a half hour and, assuming that the Senator can be recognized, I believe that I only have about 10 or 15 minutes of time remaining. I wonder if the Senator from Texas would permit that I be allowed to yield to the Senator from Arizona, if the Senator from Arizona is willing to ask a question to be taken out of his own time.

Mr. GRAMM. Reserving the right to object, the Senator started out with a unanimous consent request and then launched into a speech.

The PRESIDING OFFICER. There is no request pending.

Mr. GRAMM. Maybe if the Senator would do his unanimous consent request and then yield, that would be fine.

Mr. LEVIN. I would rather do my unanimous consent request at the end of the time, rather than at the beginning of the time. I make a parliamentary inquiry. If I make a unanimous consent—

Mr. GRAMM. I don't object to the Senator yielding. I wanted to be sure we had the time we were supposed to have.

Mr. LEVIN. I ask unanimous consent that the Senator from Arizona, if he is willing, be able to ask a question on his time. I yield to the Senator from Arizona for that question and then I retain the floor.

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

Mr. MCCAIN. Mr. President, I will be very brief, due to the shortness of time. I wonder if the Senator from Michigan remembers my comments last Thursday when I referred to an old boxing term, ''the fix is in.'' There was no vote allowed on my amendment, which is a clearcut, absolutely unequivocal statement about the use of stock options for accounting. Does the Senator really believe that, since my amendment was blocked by that side, his amendment is not going to be blocked by this side?

The fix is in, I say to the Senator from Michigan. I hope he knows that. This is a terrible mistake, a terrible mistake, because we are not addressing what every observer knows is a vital and critical aspect of reforming this system, which continues to so badly erode the confidence of the American people, the investors, which is over half of the American people.

I wonder if the Senator from Michigan remembers what I said last week, that the fact is the fix is in. I didn't get a vote on my amendment and the Senator from Michigan won't get one on his. Very frankly, since that side blocked my vote, I can understand them blocking this vote. I think it is wrong on both sides.

The American people deserve to know how we stand on the issue of stock options. Does the Senator understand that?

Mr. REID. Will my friend yield for a question on my time?

Mr. LEVIN. I am happy to.

Mr. REID. The Senator will recall the Senator from Arizona talking about the fix being in, and the RECORD will clearly reflect that the Senator from Arizona asked that his amendment be in order postcloture, and, as the Senator from Michigan will recall, I objected to that because at that time we had 56 other amendments that were pending. They also wanted them to be in order.

Mr. MCCAIN. If the Senator will yield, that is not correct. Mine was a motion to recommit.

Mr. REID. I am talking about the objection about which I was involved, and does the Senator from Michigan recall that objection to the unanimous consent request by the Senator from Arizona?

Mr. LEVIN. I believe I do recall the objection to the request, and I would rather let the RECORD speak for itself as to the other matters because I think the issue before us is a somewhat different issue than we faced on the McCain-Levin amendment last week. Now we have a Levin-McCain-Corzine amendment, which is somewhat different. I supported Senator MCCAIN's amendment, and, indeed, I have been very active in trying to get this accounting rule adopted in the way the independent accounting board wants to have it adopted. That is the key emphasis.

Mr. SARBANES. Will the Senator yield on my time for a question?

Mr. LEVIN. I am happy to yield.

Mr. SARBANES. As I understand the Senator's amendment—the one he will be seeking to offer.

Mr. LEVIN. I will be seeking unanimous consent to have the second-degree amendment laid aside so that I can do so.

Mr. SARBANES. As I understand it, this amendment is not the Congress trying to legislate what the accounting standard should be; is that correct?

Mr. LEVIN. The Senator is correct.

Mr. SARBANES. I think that is important because I, frankly, do not think that the Congress should get into the business of trying to legislate accounting standards. I don't think we have the expertise or the competence to do it. And it turns established accounting standards into a straight-out political exercise, and I don't think that is wise.

As I understand the Senator's amendment, it would simply reference the issue of the treatment of stock options to the financial accounting standards board, for them to make their own independent judgment as to how this matter should be treated, is that correct?

Mr. LEVIN. The Senator is correct.

Mr. SARBANES. And I understand that the terms of reference are such that it does not presuppose a particular substantive conclusion; it is, in effect, left open, or even level, however you want to describe it—a level playing field for FASB, the expert body that has been established to make these judgments to make its own independent judgment as to how these matters should be addressed, is that correct?

Mr. LEVIN. The amendment directs FASB to review the issue and adopt an appropriate standard. Those are the words in the amendment. I must tell my good friend from Maryland, however, that there is a history here that cannot be ignored.

The history is that FASB tried to adopt a standard in 1994. They said what the right standard was. They were beaten back and brow-beaten and pressured, so they had to give up what they believed is right. That is in their own history. Then they recommended to corporations to expense options, because that is the right thing to do. But they offered an option to corporations to simply disclose the value of options in their financial statement in a footnote. They left that option open.

So I have two hopes here. One is that there will not be an objection to a vote on this amendment. For the life of me, I cannot see how anybody can object to a vote on an amendment, which simply tells the independent accounting standards board to reach an appropriate decision.

Now, we did intervene 8 years ago, and I believed it was wrong for us to intervene. Nine of us voted no; 90 voted yes. We told them: Do not change the rule; do not expense options.

In my judgment, it was wrong procedurally and it was wrong in terms of the substance. But it is my hope that, No. 1, we will be allowed to have a vote, and, No. 2, it would be my expectation, however, if it is left to the independence of FASB, that FASB would continue to do what they said was the right thing, which is to expense options.

It is left to their independent judgment to reach an appropriate conclusion under the language of my amendment.

Mr. SARBANES. So it would be FASB's call?

Mr. LEVIN. It would be FASB's call.

Mr. SARBANES. Mr. President, I simply want to say I am supportive of this amendment. I think this is the right way to go about it.

Let me repeat, I do not think the Congress itself should be in the business of legislating accounting standards, but this amendment does not do that. It references the issue to the very body that has been established to accomplish that, which has the expertise and the competence. The amendment also helps to underscore the independence of FASB and a congressional perception that they should call it as they see it. I hope at the appropriate time the Senator will be able to obtain permission to bring his amendment before the body.

I thank the Senator for yielding.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. I am sorry. I think the Senator from Michigan has the floor.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. I ask unanimous consent that I yield to the majority leader for whatever time he wishes to take and that time not be taken from the few minutes I have remaining, and that the floor be returned to me at that time.

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

Mr. DASCHLE. Mr. President, I will use my leader time so as not to take any time still allotted to the Senator from Michigan.

I hope we can get the unanimous consent request that the Senator from Michigan is propounding. I will also say that this is not a question of if he can get consent and ultimately bring the amendment to the floor. One way or the other we will have a vote on the Levin amendment. It may not be on this bill this afternoon if we fail, but our colleagues need to know we will have a vote on this amendment. This will occur. If I have to offer it myself, we will have a vote on this amendment. So we can do it this afternoon, we can do it tomorrow, or we can do it next week. We are going to have a vote on this amendment. Senators need to take that into account before they object.

Let me say as strongly as I can, this amendment belongs on this bill. This is exactly what I think we ought to be doing, and I think on a bipartisan basis there is strong support for what Senator LEVIN is proposing.

I want to speak briefly this afternoon, in my leader time, on the amendment itself. I think it is important, as my colleagues have been noting, that the Levin amendment contains precisely the right solution to the difficult problems of determining the proper accounting treatment for stock options. It reserves that judgment for the appropriate body, the Financial Accounting Standards Board. They are the ones given the authority, they are the ones with the credibility, they are the ones with the standing to make the right

decisions about this very important and complex matter.

I argue this is the heart of our ability to deal with the accounting reforms that are in the Sarbanes and Leahy bills.

It has become all too clear that accounting standards are complex and can be easily manipulated by aggressive and sometimes unscrupulous corporate executives. Unfortunately, FASB's weak, dependent condition has contributed to those manipulations. In fact, it is arguable that the undermining of FASB's independence was the necessary precondition to the crisis in confidence afflicting our capital markets today.

One of the many virtues of the Sarbanes bill is that it corrects that situation. It provides for a new, improved FASB, giving it for the first time full financial independence from the accounting industry. That certainly is the first and most vital improvement we need with respect to establishing clarity and regularity of accounting standards.

Another needed improvement is for those of us in Congress to allow FASB to do its job. In 1994—and my colleagues have referenced this—when this issue was last taken up by the Senate, I am proud to say I was one of nine Senators who voted against the Senate intruding itself on FASB's decisionmaking process. That is the only reason I opposed my colleague's amendment last week. As well intended as it is, in my view it did the same thing on the other side that they were trying to do 9 years ago. It asserts Congress's authority to undermine the independence of that board. I opposed it 9 years ago, and I oppose it today, but for obviously different results.

At the same time, the Senate was coming at the options issue from the direction of prohibiting expenses back in 1994, and as I said today the momentum is the opposite, but the right course is the same. Let the experts on the accounting standards board do their job and make the appropriate decision. Eight years ago, the technical accounting questions were essentially the same as they are today, although obviously 8 years have given us an entirely different perspective than the one we had back then. Nonetheless, the questions are still real. Accountants still debate the relative merits of the opposing sides. We still have expert opinion going both ways. On the one hand, the argument is made that if options are not expensed, bottom lines look far more attractive than they actually should be, and the investors can be deceived by the distorted financial pictures that result.

On the other hand, we hear that it is inherently impossible to value options with no concrete reality behind what the options will actually be worth when they are exercised. There is also a real debate about the incentive effects of options.

Supporters argue that they better align an employee's interests with the company's. Opponents contend they result in a ''pump and dump'' mentality, with senior executives seeking to inflate their stock prices at any cost so they can quickly and cynically enrich themselves.

In contrast to those complex questions, the Levin amendment is simplicity itself. It is one sentence. It says that FASB shall:

> Review the accounting treatment of employee stock options and shall, within one year of enactment, adopt an appropriate generally-accepted accounting principle for the treatment of employee stock options—

End of issue.

The business of setting accounting standards is lodged, by the Levin amendment, in the board that the Sarbanes bill expressly seeks to strengthen and improve. I fully support the Levin amendment and the philosophy behind it. Congress should not be engaged in setting technical accounting rules. We should be seeking to do the reverse: Establish an independent FASB that can help restore confidence in the accuracy of financial information.

I observe in this context that because of that principle, as I said a moment ago, while well intended, I believe the McCain amendment went too far and did exactly what we were trying to do in 1994 but on the flip side. Restoring independence to the accounting standards is one of the overriding objectives of the Sarbanes bill, and that is one of my main reasons for supporting it as strongly as I do. That was my primary reason for voting in 1994 against a previous attempt to direct FASB in its decision about expensing, and it is the primary reason for supporting the Levin amendment today.

So I will end on this particular issue where I began. There will be a vote on the Levin amendment. It will be today, tomorrow, next week, or at some point in the future, but Senators should not be misled. If there is an objection today, it by no means ends the debate. We might as well have it. We might as well get it. We might as well include it in the Sarbanes bill because it will be included in one fashion or another, ultimately, before the work has been done in the Senate on this very important, complex, and comprehensive challenge we face.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 25 minutes remaining.

Mr. LEVIN. Mr. President, I quote from a few observers what the stakes are in this vote and what the stakes have been in terms of the way in which stock options have not been expensed, have been stealth compensation, have fueled the incredible increase in terms of executive pay, and have been a driving force behind the deceptive accounting practices which have bedeviled this Nation and undermined public confidence in the credibility of our financial statements.

Robert Samuelson, an economist, said the following:

> The point is that the growth of stock options has created huge conflicts of interest that executives will be hard-pressed to avoid. Indeed, many executives will coax as many options as possible from their compensation committees, typically composed of ''outside'' directors. But because ''directors are [manipulated] by management, sympathetic to them, or simply ineffectual,'' the amounts may well be excessive. . . .
>
> Stock options are not evil, but unless we curb the present madness, we are courting continual trouble.

This is what a retired vice president at J.P. Morgan and Company said: There can be no real reform without honest accounting for stock options. A decade ago, the Financial Accounting Standards Board recommended options be counted as a cost against earnings like all other forms of compensation, but corporate lobbyists resisted and Congress did their bidding. Alan Greenspan and Warren Buffett, among others, are calling for the same change now, but it remains to be seen whether the accounting profession can act without congressional interference. Treating options like other forms of pay would make executive compensation transparent, diminish the temptation to cook the books, and make managers less inclined towards excessive risk taking.

Warren Buffett, who was quoted by Senator MCCAIN last week, said the following: If options aren't a form of compensation, what are they? If compensation isn't an expense, what is it? If expenses shouldn't go into the calculation of earnings, where in the world should they go?

A New York Times editorial of March 31 of this year stated:

> We have no quarrel with the business lobby's claim that stock options have helped fuel America's entrepreneurship, particularly in Silicon Valley. But in the interest of truthful accounting and greater financial integrity, options should be treated as what they are, a worthy form of compensation that companies must report as an expense.

Robert Felton, director of McKinsey & Company's Seattle office, said:

> Because they have so much at stake with these huge grants, options are likely to have encouraged some managers to cheat and cook the books.

Allan Sloan of Newsweek:

> . . . options are a free lunch for companies. . . .
>
> I'm all in favor of employees becoming millionaires via options—I'm an employee, after all—but I'm also in favor of companies providing profit-and-loss statements that show the real profit and loss. Ignoring options' costs and low-balling CEO packages are simply outrageous. When campaigns start expensing options and disclosing true CEO and director compensation numbers, I'll believe that they've seen the light.
>
> According to the Economist, last year, stock options accounted for 58 percent of the pay of chief executives of large American companies. So over half the compensation of our CEOs of major companies now comes from stock options. To leave that expense off the financial statements' bottom line is to distort what is going on at companies. It is

part of the reason we have not had accurately reflective financial statements at our corporations. It is part of the reason for the soup we are in right now.

Where financial statements have been giving a false picture of what a company's financial situation is, it has provided stealth compensation in huge amounts to executives, it has watered down the value of stock to the owners of a corporation. That is why now we have such tremendous support from the organizations which represent stockholders.

That is why, for instance, TIAA–CREF, the largest pension fund in the United States for teachers is supportive of changing the accounting for stock options. It is why the Council for Institutional Investors, which is the leading shareholders organization for pension funds, now favors expensing stock options in order to give an accurate reflection of what a company's financial statement is. It is why the AFL–CIO supports the amendments offered last week and the amendment which hopefully will be offered today if we are allowed to have a vote on this.

Alan Greenspan says this is the top post-Enron reform. Expensing stock options is the top post-Enron reform. That is the Chairman of the Federal Reserve. Paul Volcker, former Federal Reserve Chairman, supports a change in stock option accounting. Arthur Levitt, former SEC Chairman, supports the change; Warren Buffett, as we mentioned; and a host of economists. Standard & Poor's believes you have to expense stock options if you are going to show an accurate earnings calculation; Citizens for Tax Justice; Consumer Federation of America; Consumers Union, and on and on.

The Washington Post of April 18 says the following:

> . . . expert consensus favors treating options as a corporate expense, which would mean that reported earnings might actually reflect reality. . . . But nobody wants to ban this form of compensation; the goal is merely to have it counted as an expense.

That is the end of that particular quote. I would like the entire quote printed in the RECORD, and I ask unanimous consent that all the editorials and comments that I referred to be printed in the RECORD in full.

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

[From the Washington Post, Jan. 30, 2002]

STOCK OPTION MADNESS

(By Robert J. Samuelson)

As the Enron scandal broadens, we may miss the forest for the trees. The multiplying investigations have created a massive whodunit. Who destroyed documents? Who misled investors? Who twisted or broke accounting rules? The answers may explain what happened at Enron but not necessarily why. We need to search for deeper causes, beginning with stock options. Here's a good idea gone bad—stock options foster a corrosive climate that tempts many executives, and not just those at Enron, to play fast and loose when reporting profits.

As everyone knows, stock options exploded in the late 1980s and the '90s. The theory was simple. If you made top executives and managers into owners, they would act in shareholders' interests. Executives' pay packages became increasingly skewed toward options. In 2000, the typical chief executive officer of one of the country's 350 major companies earned about $5.2 million, with almost half of that reflecting stock options, according to William M. Mercer Inc., a consulting firm. About half of those companies also had stock-option programs for at least half their employees.

Up to a point, the theory worked. Twenty years ago, America's corporate managers were widely criticized. Japanese and German companies seemed on a roll. By contrast, their American rivals seemed stodgy, complacent and bureaucratic. Stock options were one tool in a managerial upheaval that refocused attention away from corporate empire-building and toward improved profitability and efficiency.

All this contributed to the 1990's economic revival. By holding down costs, companies restrained inflation. By aggressively promoting new products and technologies, companies boosted production and employment. But slowly stock options became corrupted by carelessness, overuse and greed. As more executives developed big personal stakes in options, the task of keeping the stock price rising became separate from improving the business and its profitability. This is what seems to have happened at Enron.

The company adored stock options. About 60 percent of employees received an annual award of options, equal to 5 percent of their base salary. Executives and top managers got more. At year-end 2000, all Enron managers and workers had options that could be exercised for nearly 47 million shares. Under a typical plan, a recipient gets an option to buy a given number of shares at the market price on the day the option is issued. This is called ''the strike price.'' But the option usually cannot be exercised for a few years. If the stock's price rises in that time, the option can yield a tidy profit. The lucky recipient buys at the strike price and sells at the market price. On the 47 million Enron options, the average ''strike'' price was about $30, and at the end of 2000, the market price was $83. The potential profit was nearly $2.5 billion.

Given the huge rewards, it would have been astonishing if Enron's managers had not become obsessed with the company's stock price and—to the extent possible—tried to influence it. And while Enron's stock soared, why would anyone complain about accounting shenanigans? Whatever the resulting abuses, the pressures are not unique to Enron. It takes a naive view of human nature to think that many executives won't strive to maximize their personal wealth.

This is an invitation to abuse. To influence stock prices, executives can issue optimistic profit projections. They can delay some spending, such as research and development (this temporarily helps profits). They can engage in stock buybacks (these raise per-share earnings, because fewer shares are outstanding). And, of course, they can exploit accounting rules. Even temporary blips in stock prices can create opportunities to unload profitable options.

The point is that the growth of stock options has created huge conflicts of interest that executives will be hard-pressed to avoid. Indeed, many executives will coax as many options as possible from their compensation committees, typically composed of ''outside'' directors. But because ''directors are [manipulated] by management, sympathetic to them, or simply ineffectual,'' the amounts may well be excessive, argue Harvard law professors Lucian Arye Bebchuk and Jesse Fried and attorney David Walker in a recent study.

Stock options are not evil, but unless we curb the present madness, we are courting continual trouble. Here are three ways to check the overuse of options.

(1) Change the accounting—count options as a cost. Amazingly, when companies issue stock options, they do not have to make a deduction to profits. This encourages companies to create new options. By one common accounting technique, Enron's options would have required deductions of almost $2.4 billion from 1998 through 2000. That would have virtually eliminated the company's profits.

(2) Index stock options to the market. If a company's shares rise in tandem with the overall stock market, the gains don't reflect any management contribution—and yet, most options still increase in value. Executives get a windfall. Options should reward only for gains above the market.

(3) Don't reprice options if the stock falls. Some corporate boards of directors issue new options at lower prices if the company's stock falls. What's the point? Options are supposed to prod executive to improve the company's profits and stock price. Why protect them if they fail?

Within limits, stock options represent a useful reward for management. But we lost those limits, and options became a kind of free money sprinkled about by uncritical corporate directors. The unintended result was a morally lax, get-rich-quick mentality. Unless companies restore limits—prodded, if need be, by new government regulations—one large lesson of the Enron scandal will have been lost.

[From the Washington Post, April 18, 2002]

MONEY TALKS

Alan Greenspan, perhaps the nation's most revered economist, thinks employee stock options should be counted, like salaries, as a company expense. Warren Buffet, perhaps the nation's foremost investor, has long argued the same line. The Financial Accounting Standards Board, the expert group that writes accounting rules, reached the same conclusion eight years ago. The London-based International Accounting Standards Board recently recommended the same approach. In short, a rather unshort list of experts endorses the common-sense idea that, whether you get paid in cash or company cars or options, the expense should be recorded. Yet today's Senate Finance Committee hearing on the issue is likely to be filled with dissenting voices. There could hardly be a better gauge of money's power in politics.

Why does this matter? Because the current rules—which allow companies to grant executives and other employees millions of dollars in stock options without recording a dime of expenses—make a mockery of corporate accounts. Companies that grant stock options lavishly can be reporting large profits when the truth is that they are taking a large loss. In 2000, for example, Yahoo reported a profit of $71 million, but the real number after adjusting for the cost of employee stock options was a loss of $1.3 billion. Cisco reported $4.6 billion in profits; the real number was a $2.7 billion loss. By reporting make-believe profits, companies may have conned investors into bidding up their stock prices. This is one cause of the Internet bubble, whose bursting helped precipitate last year's economic slowdown.

It is not surprising, therefore, that the expert consensus favors treating options as a corporate expense, which would mean that reported earnings might actually reflect reality. But the dissenters are intimidated by neither experts nor logic. They claim that the value of options is uncertain, so they

have no idea what number to put into the accounts. But the price of an option can actually be calculated quite precisely, and managers have no difficulty doing the math for the purposes of tax reporting. The dissenters also claim that options are crucial to the health of young companies. But nobody wants to ban this form of compensation; the goal is merely to have it counted as an expense. Finally, dissenters say that options need not be so counted because granting them involves no cash outlay. But giving employees something that has cash value amounts to giving them cash.

The dissenters include weighty figures in both parties. Sen. Joe Lieberman (D–Conn.) is the chief opponent of options sanity in the Senate, and last week President Bush himself declared that Mr. Greenspan is wrong on this issue. What might be behind this? Many of the corporate executives who give generously to politicians are themselves the beneficiaries of options—often to the tune of millions of dollars. High-tech companies, an important source of campaign cash, are fighting options reform with all they've got. But if these lobbyists are allowed to win the argument, they will undermine a key principle of the financial system. Accounting rules are meant to ensure that investors get good information. Without good information, they cannot know which companies will best use capital, and the whole economy suffers in the long run.

[From the New York Times, March 31, 2002]

STOCK OPTION EXCESSES

In his Congressional testimony last month, Jeffrey Skilling, Enron's former chief executive, offered a primer on the misuses of stock options. Options, he said, are the most egregious way for companies to pump up their profits artificially. They also netted him a tidy $62.5 million in 2000 and helped Enron pay no income taxes in four of the last five years.

Stock options, in theory, aren't a bad idea. By giving employees the chance to buy a company's stock in the future at today's price, corporations can provide an extra incentive for hard work and can augment compensation. The New York Times Company awards option to its top executives. But like other rational business practices that got out of hand during the boom years of the late 1990's, options have been abused by some companies and are in need of reform.

A good place to start would be for Congress to end the conflict between how the tax laws and the accounting rules treat employees options. Alan Greenspan, the Federal Reserve chairman, has identified that as one of the most pressing post-Enron reforms affecting corporate governance.

That conflict creates a loophole that has allowed companies to treat stock options as essentially free money during the recent dot-com bubble. A company does not have to report grants of stock options as an expense on its profit-and-loss statements, as it does with other forms of compensation, but it can deduct the options as an expense from its tax liability when employees exercise them.

As a result, corporate executives can award themselves oodles of stock options without fear of denting their profit reports. Once the options are exercised, the company can treat the appreciation in the shares' value—the employees' profit—as an expense for tax purposes. At Enron, stock option deductions alone turned what would have been a federal income tax bill of $112 million in 2000 into a $278 million refund. Mr. Greenspan said last week that Federal Reserve Board research found that the average earnings growth rate of the S&P 500 companies between 1995 and 2000 would have been reduced by nearly a quarter if the companies had reported their stock options as expenses on financial statements.

A decade ago, the accounting industry proposed a sensible rule to make companies report options as expenses, but it was beaten back by fierce corporate lobbying. Now Senators John McCain and Carl Levin have proposed a bill that would end the double standard, disallowing the tax deduction for any company that fails to report options as an expense.

They are backed in that effort by investors like Warren Buffet and big institutions like pension plans, which are rightly incensed by abusive executive compensation schemes. They are tired of unseemly practices like the repricing of options to ensure that executives still get windfalls if the stock price falls. Making interest-free loans for executives to acquire stock (often forgiven if the bet does not pay off) is another dubious compensation practice.

We have no quarrel with the business lobby's claim that stock options have helped fuel America's entrepreneurship, particularly in Silicon Valley. But in the interest of truthful accounting and greater financial integrity options should be treated as what they are: a worthy form of compensation that companies must report as an expense.

Congress must end the dot-com-era notion that options equal free money. That would be a first step toward reassuring investors that top executives cannot treat publicly traded companies as Ponzi schemes created for their own enrichment.

[From Newsweek, May 20, 2002]

SHOW ME THE MONEY (ALL OF IT)

(By Allan Sloan)

Watching corporate America these days is like watching drunks at a revival meeting. They're vowing to sin no more, to tell shareholders the straight truth instead of playing accounting games, to embrace ''transparency'' so outsiders can see what's going on. But talk is cheap. When it comes to action on two key reforms—accounting for stock options, and showing the value of chief executives' compensation packages—corporations are as opaque as ever.

The accounting first. As things stand now, options are a free lunch for companies—employees place a high value on them, but companies can issue as many as they want without hurting corporate profits. That's because companies don't have to count options value as an expense. With reform in the air because of Enron, old-math types like Warren Buffett and Alan Greenspan are pushing to change accounting rules to force companies to count the value of stock options as an expense in their profit-and-loss statements. Accounting rule makers proposed this a decade ago, but backed down under political pressure generated by corporations, especially in options-happy Silicon Valley. Then there's a second, little-known aspect of the options-accounting debate. If companies have to count the value of options as an expense, they would come under huge pressure to report their value as compensation to the CEO, and to members of the board. Under current rules, a company has to show shareholders a table that includes how much it gave the CEO in salary, bonus, long-term compensation and other benefits. But the table has to show only the number of options granted to the CEO, not their economic value. To find that, you have to hunt on other pages—and you may not find it at all if the company opts to report a different way. ''The original idea was to have the value of options in the table, not the number of options,'' says Graef Crystal, a compensation expert who worked on the disclosure rules. But, he says, the SEC backed down after companies objected.

It's easy to see why companies would have been upset at having to count options as compensation. In most pay filings I see these days, the economic value of CEO and directors' options exceeds their cash payments. So counting options would more than double the typical package.

To see how this works, let's look at Dell Computer and Knight Ridder, two companies I just happen to have looked at recently. Dell's most recent statement shows that Michael Dell, its billionaire owner and founder, earned $2.6 million in salary and bonus. Not starvation wages, but not much for a big-time CEO. On a different page, you see that he got options the company valued at $26 million. That's major moolah. Dell directors were paid a $40,000 annual retainer fee, but also got options on $850,000 worth of Stock. The option's economic value: around $300,000. Note that I'm not accusing Dell of hiding anything—it's following the rules.

Dell shows why options have economic value when they're granted, even if the stock subsequently falls. The directors got their options when Dell stock was about $52, double today's price. By getting options on $850,000 of stock rather than buying 16,298 shares, directors avoided losing money—and didn't have to tie up $850,000. Meanwhile, they had the same upside as regular investors who risked $850,000. The company says its compensation packages are skewed toward options, so that employees and directors don't make out unless regular stockholders do.

Now to Knight Ridder, which has been on a cost-cutting kick for years. Last year chairman Tony Ridder got $935,720 in salary and no bonus. He also got options on 150,000 shares. Knight Ridder values the options at about $1.6 million, but by most rules of thumb, they were worth twice that much. Knight Ridder directors got a $40,000 annual fee—and 4,000 options. The options were worth about $42,500 by Knight Ridder's math, about $85,000 by conventional math. Knight Ridder says its figures are lower because it assumes its options are exercised much quicker than other analysts assume.

I'm all in favor of employees becoming millionaires via options—I'm an employee, after all—but I'm also in favor of companies providing profit-and-loss statements that show the real profit and loss. Ignoring options' costs and low-balling CEO pay packages are simply outrageous. When companies start expensing options and disclosing true CEO and director compensation numbers, I'll believe they've seen the light. Until then, I'll assume that they're still on the bottle.

[From the Wall Street Journal, May 3, 2002]

ACCOUNTING FOR OPTIONS

(By Joseph E. Stiglitz)

Déjà vu. The post-Enron imbroglio over stock options is a reminder that history—if forgotten—does indeed repeat itself. Eight years ago, while serving on President Clinton's Council of Economic Advisers, I was involved in a heated debate over information disclosure. The Financial Accounting Standards Board had proposed a new standard that would require firms to account for the value of executive options in their balance sheets and income statements.

When FASB made its proposal for what would have clearly been an improvement in accounting practices, Silicon Valley and Wall Street were united in their opposition. The arguments put forward then are the same as those put forward today, and they are as specious and self-serving now as they were eight years ago.

OUTRAGEOUS

The most outrageous argument—but the one that had the greatest impact—was that

disclosing the information would adversely affect share prices. That is, if people only knew how much their equity claims on the firm could be diluted by options, they would pay less for their shares! True, and that is precisely why the disclosure is so important. Markets can only allocate resources efficiently when prices accurately reflect underlying values, and that requires as good information as possible. If markets overestimate the value of a particular set of ventures, resources will mistakenly flow in that direction. This is partly what caused the dot-com and telecom bubbles. Irrational exuberance played its part, but so too did bad accounting—i.e., distorted information.

To be sure, information will never be perfect and asymmetries of information are pervasive. But one of the key insights of the modern theory of information is that participants do not always have an incentive to disclose fully and accurately all the relevant information, and so it is important to have standards.

This is where the second specious argument enters: Critics of FASB's proposal claimed that it is impossible to value options accurately, and accordingly, it would be misleading to include the options within the standard accounting frameworks. To better understand the falsity of this argument, let's take a closer look at how stock options really work.

The basic economics of stock options are simple. Issuing stock options does not create resources out of thin air. Executives like stock options because they have value. But the value however measured, comes at the expense of other shareholders. The right of managers to buy shares is the right to dilute the ownership claims of existing shareholders. When markets work well—when information is good—the market will value today the issuance of a right to dilute, even when that dilution may never occur, and if it does occur, would happen sometime in the future.

The existing owners of the firm will participate less in the upside potential of the market them they would have in the absence of the options. In principle, they can calculate the circumstances when the executives are likely to exercise their options, and therefore can calculate the diminution in their potential gains from owning shares in the company. That is why when this information is disclosed in ways that can easily be understood by investors, it will lead to a fall in the company's share price.

Making such calculations, however, is not easy or costless. In principle, each shareholder could go through each of the items in the firm's accounts to construct his own ''estimates'' but that would be a foolish waste of resources, and the transaction costs would put a major damper on capital markets and the market economy. That is why we have accounting standards. Such information is like a public good: Better standards—more transparency—lead to better resource allocation and better functioning markets; and if participants have more confidence in markets, they will be more willing to entrust their money to markets.

Which brings us back to the argument that it is ''impossible'' to value options. Companies do, of course, have ways of calculating the value of options and do it themselves all the time for their own internal planning purposes.

AS for the question of whether an estimate based on a publicly-disclosed formula would be misleading, because it is only an estimate, that is true of many line items that are central to our accounting frameworks, such as depreciation, 'Calculations about the value of options would be just as, or even more, accurate than standard depreciation estimates are of the market value of the declines in asset values that come with use and obsolescence—something which is a line item on every accounting framework in corporate America and most of the world. Of this much we can be sure: zero, the implied valuation used by companies now when describing the cost of options in their balance sheets and income statements, is a vast underestimate.

Those who argue against including options within the standard accounting frameworks try to have it both ways: They believe that market participants are smart enough to read through dozens of footnotes to figure out the implications of options for the value of their shares, but so dumb that they would be misled by the more accurate numbers that would be provided under the reform proposals, and unable to redo the calculations themselves.

TRANSPARENCY

There is one more reason for the U.S. to be resolute in improving our accounting standards by including better accounting for options. During the East Asia crisis the U.S. preached the virtues of transparency but then refused to do anything about regulating the murky world of offshore banking. America also preached the virtues of our accounting standards only to find that the world was laughing at Enron and Arthur Andersen. Tightening our rules on accounting of options would signal that the U.S. is serious about openness, serious about improving its accounting standards—despite the special interests opposed to changes—and willing to learn from its mistakes.

Many of the same forces that allied themselves in the 1990s against changes in accounting for options are now trying to suppress this attempt to make our market economy work better. In the earlier episode, the National Economic Council, the U.S. Treasury, and the Department of Commerce intervened in what was supposed to be an independent accounting board, and put pressure on FASB to rescind its proposed regulations. They won, and the country lost. Today, there is a risk once again of political intervention. At least this time, the voices of responsible economic leadership, such as Alan Greenspan, are speaking out. I only hope that this time they will succeed.

Mr. LEVIN. Mr. President, the Republican staff of the Joint Economic Committee put out a report called, ''Understanding the Stock Option Debate.''

They have gone through a lengthy analysis dated July 9, 2002, in which they conclude the following:

> Existing accounting principles provide an unambiguous answer. Stock option awards should indeed be treated as a cost in financial statements.

It is quite clear to me that two things are true. No. 1, that how we treat stock options is an essential part of the post-Enron reform effort. That is No. 1. No. 2, it seems clear to me that there is at least a likelihood that a majority of this body, if allowed to vote on this amendment, will vote to refer this matter to an independent accounting standards board which has its own source of revenue, free from the kind of pressure which it was under in 1994 and 1995, to reach an appropriate conclusion.

Do I believe that conclusion will be the same as they reached in 1994? I do. It is very clear to me they would reach such a conclusion and should reach such a conclusion. But as our colleagues have pointed out, that is up to the board under this amendment. We would not be adopting a standard.

In all honesty, I expect they would continue on the same course they were on 8 years ago when they were violently thrown off course by people who had control over the purse strings of the organization. I would expect that would happen. But under this amendment, it is their call, not ours.

I support the McCain amendment because I believe, as I believed then, that the accounting standards board wanted to expense options and that we, in executive pressure, interfered with that decision on their part. That is why I believe Senator MCCAIN's amendment is also appropriate. But we cannot even get a vote on that amendment. Last week, we were not able to bring that amendment to a vote.

But this amendment is different. This amendment says to the independent board: review this issue. Make an appropriate decision within a year.

For the life of me I not only do not see how folks—regardless of the side of this particular issue that they are on—could vote against such an amendment when it does not tell them what to do but just asks them to review it and decide within a year as to what the appropriate accounting method is. I do not understand why, in the middle of a debate on the reforms which are essential to restore public confidence after the Enron fiasco, this Senate should not be allowed to vote on this issue on this bill.

When the majority leader announced that one way or another we will get to a vote on this amendment, I was glad to hear that. I didn't know he was going to say that, but I certainly was glad he said that. But it seems to me that adds a reason we ought to vote for this amendment on this bill.

This is the right place. Surely it is the right time. There has perhaps never been a more critical moment in our economic history in the last few decades than we are facing right now, to help us restore public confidence. It will be an additional contribution to that restoration of public confidence if we take this action. If we say yes, 8 years ago we did intervene, but now we don't want to tell the accounting standards board that they should not expense options. That was 8 years ago. What we are telling them now is: Do the right thing.

We know what they tried to do 8 years ago. It is laid out in the record by them. They wanted to do what they believed was the right thing. If they had done so, they would have been put out of business.

Now we have an opportunity, it seems to me, to do the right thing ourselves, which is to tell the board that has the responsibility to adopt accounting standards, to adopt what they believe is the appropriate standard. That is the right thing to do.

Mr. REID. Will the Senator yield for a question on my time?

Mr. LEVIN. I will be happy to.

Mr. REID. Is the Senator aware that the stock market, the Dow as of now is down 338 points as of today?

Mr. LEVIN. I was not aware of that. But it surely adds an additional urgency, if we need additional urgency, for why we should do everything in our power to restore public confidence in the financial systems in this country.

I left off one of my cosponsors before. Senator BIDEN is a cosponsor of the amendment, which is at the desk.

I will ask unanimous consent we be able to vote on that at a later moment.

I wonder if I could ask the Chair how much time I have remaining.

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. LEVIN. I understand Senator MCCAIN would like to speak at this time. I see the Republican manager on the floor, so I do not know if this fits his particular timetable or not.

I ask unanimous consent I be allowed to yield to Senator MCCAIN on his——

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEVIN. Mr. President, at this time I ask unanimous consent to lay aside the pending second-degree amendment, No. 4286, and call up for consideration my amendment 4283, on stock options, which is a second-degree amendment to the Edwards amendment No. 4187.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, reserving the right to object, let me say there is something on which I agree with the majority leader. That is, at some point we are going to make a judgment on this issue. But we are currently in a situation where we have 97 first-degree amendments that have been filed. We have 24 second-degree amendments. We have 3 different approaches to this issue.

Senator MCCAIN wants to make a decision and set a policy.

Senator LEVIN, as I read it, wants a fair trial and then a hanging.

And Senator ENZI and others would simply like to have a fair trial.

What is the right outcome? I think that is subject to debate. That is why I think we ought to have the debate. The idea that when we have three different approaches, we are going to decide that one of them is going to be debated on, voted on, but not all three of them is something we should not expect to happen.

I do not support Senator MCCAIN's amendment, but he has every right, it seems to me, to have it considered. And I am certainly willing to vote on it. There may be people who do not want to vote on this issue, but I am not one of them. So I certainly do object. I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. Mr. President, the only way we are going to get to debate and votes is if we allow the pending amendments which are the first- and second-degree amendments to be voted on so we can move to other amendments without having one gatekeeper denying opportunity for all the others on this floor to offer amendments and have them voted on. That is not the intention of cloture and postcloture.

I do not believe this process has been used in this way before, where, postcloture, germane amendments are supposed to be taken up and voted on, where first- and second-degree amendments have not been disposed of so they can be used, not with the consent of their sponsors, but they are used by others to block consideration of the amendments.

The Senator from Texas says he would like to have a debate and vote. There is one way to do it. Let's dispose of the second-degree amendment, take up the Carnahan amendment and vote on it, take up the Edwards amendment and vote on it.

Mr. GRAMM. Will the Senator yield?

Mr. LEVIN. I will be happy to yield on the Senator's time.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object, Mr. President, the Senator from Michigan is claiming his 1 hour. I understand he has been yielding back and forth. I assume we could, under these circumstances, have one Senator run the entire 30 hours, as long as they keep yielding to other Senators.

There are others of us, of course, who want to be heard and who want to offer amendments.

Mr. GRAMM. I think that is fair. I withdraw my request.

Mr. LEVIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I think if we want to deal with this issue today, probably the way to deal with it is to have a unanimous consent agreement and have a vote on all three amendments—have a vote on Senator MCCAIN's amendment, have a vote on the Levin amendment, have a vote on Senator ENZI's amendment so that we would have the full range of choices. But to suggest that nothing is standing in the way except a few obstacles to everybody having their will is to neglect the fact that 97 amendments have been filed as first-degree amendments and 24 second-degree amendments.

So, therefore, by definition, I assume if I suggest and ask unanimous consent that each and every amendment be voted on, someone would object since our leadership has plans for this week and next week. I think it might be possible if we want to deal with this issue today to have a unanimous consent agreement where Senator MCCAIN would get a vote on his amendment, where the Senator from Michigan would get a vote on his amendment, and where Senator ENZI would get a vote on his amendment. Then we would have a range of choices.

I would be amenable to such an agreement if the Senator wanted to shop that around on his side of the aisle. We could do a hotline and see if it would fly. But in the absence of some agreement where the other two gradations on this spectrum of opinion would have their day to debate this amendment and have it voted on, I don't think we are going to be able to do that. It might very well be that we need a separate bill to deal with this issue. If a Senator were to offer this amendment in earnest, I would want an opportunity to amend it. I think having FASB look at this issue—which they are certainly going to do after this bill is agreed to because this is going to be a self-funded agency, and they are going to have greater independence—I think having them look at it is something that we ought to do. But I think we shouldn't pretend to ourselves that the Levin amendment is a neutral amendment.

Asking them to look at it when it mandates by law after having looked at it that within 12 months they adopt in appropriate generally accepted accounting principles for the treatment of employee stock options—there is nothing neutral about that; in other words, study it and within a year adopt a rule.

As I understand it, Senator ENZI and others would have the SEC do a study and make a recommendation based on their study.

If this amendment were going to be dealt with in isolation, I would want an opportunity to at least leave it to FASB as to what they determine rather than mandating that they ought to issue a new accounting principle. It may be that they would determine not to do that.

Let me reiterate that I don't have any concern about voting on this issue. Maybe I should reserve my time. I want to speak on this at some point. We have several Members here who are going to speak. I have to be here for the whole time.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. I don't think this is necessary. But so there is no question about it, I ask unanimous consent that the time Senator DASCHLE used be counted against the 30 hours.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, I did not hear.

Mr. REID. I wanted Senator DASCHLE's time to be counted against the 30 hours.

Mr. GRAMM. Yes.

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

The Senator from North Dakota.

Mr. DORGAN. Mr. President, we are in a postcloture period of some 30

hours. I understand we will complete that at 6 o'clock or so this afternoon.

What is happening here is really an outrage, from my standpoint. We are in postcloture. I have a germane amendment. I have been here every single day since this bill came to the floor of the Senate prepared and ready to offer my amendment. Now, postcloture, I have a germane amendment. And the only way, apparently, that I can offer my amendment is if the Senator from Texas is willing to allow me to offer it. That is not the way the Senate should work.

I want to briefly describe my amendment.

My amendment requires the disgorgement of profits, bonuses, incentives and so on that the CEOs of corporations receive 12 months prior to bankruptcy.

That is not in the bill at the present time. It ought to be in the bill.

The bill contains a disgorgement provision requiring the return of incentives and bonus payments received prior to a restatement of earnings. I support that being in the bill, but there is nothing about the requirement to divest all those bonuses and incentive payments 12 months prior to bankruptcy. That ought to be in this bill.

Let me describe some of the problems that we are dealing with. We have been holding some hearings over in the Commerce Committee on the subject of Enron. Here is what some Enron officers got before Enron went bankrupt:

Kenneth Lay, $101 million; Ken Rice, $72.7 million; Jeffrey Skilling, $66.9 million; Stan Horton, $45 million; Andy Fastow, $30.4 million.

They did pretty well at the top. Of course, they have already filed bankruptcy with their corporation.

Should some of this be given back?

I have a constituent in North Dakota who wrote to me and said: I worked for Enron for a good many years. I built up a retirement fund of $330,000. It is now worth $1,700. That was my family's retirement fund. What am I to do? I have lost it all.

But not everybody lost it all with respect to Enron. Those close to the top made a fortune, and the folks at the bottom lost their shirts. Most of the investors and employees lost everything.

The question I ask with my amendment is, Should we include a provision in this bill that requires the give-back of this unwarranted compensation in the form of bonuses, incentives, and various things 12 months prior to bankruptcy? The answer is, of course, we should require it. We ought not to be debating this. This amendment ought to be accepted.

Let me describe some of the other folks who believe this ought to be done.

Mr. Richard Breeden, former SEC Chairman from 1989–1993 says:

> We have long required officers and directors to disgorge ''short-swing'' profits for purchases and sales within a six-month period . . . we should consider disgorgement to the company of any net proceeds of stock sales or option exercises within six-months or a year prior to bankruptcy filing.

That is Mr. Breeden, former SEC Chairman.

Henry Paulson, CEO, Goldman Sachs, who worked in the Nixon administration, said:

> The business community has been given a black eye by the activities of and behavior of some CEOs and other notable insiders who sold large numbers of shares just before dramatic declines in their companies' share prices . . . in the case of CEOs and other inside directors, we should raise the bar and mandate a one year ''claw-back'' in the case of bankruptcy, regardless of the reason.

He is right. This bill doesn't require it. There is no ''claw-back'' in this bill. There ought to be 1 year prior to bankruptcy.

I don't mean to diminish the importance of other issues that we have just discussed. The other issues are very important. On the issue of how stock options are treated, in 1994, I was one of nine Senators who voted against the proposal back then that would handcuff FASB. I come to that issue with fairly clean hands.

Let me say that while that issue is important, I have been here every single day this bill has been on the floor to offer this simple amendment on disgorgement in the face of bankruptcies. If there are people in corporations at the top of those companies who make $100 million or $70 million or $50 million, and then the company files for bankruptcy, do you not believe that some of that ought to be required to be given back? The folks at the bottom lost everything they had. They lost their life savings. They lost everything, and the folks at the top got rich. Shouldn't there be a requirement in this bill to disgorge those profits? Does anybody think that is unreasonable?

The Senator from Texas left the Chamber as I was beginning to speak. I was hoping I might get his attention. But as I understand where we are, we have a first- and a second-degree amendment. The first-degree amendment is the Edwards amendment. It is followed by a second-degree amendment, which is the Carnahan amendment.

In order for anyone to offer an amendment postcloture today, we must ask consent to set aside these amendments so we can offer our amendment. My understanding is, if someone here does not agree with that, then he can prevent that from happening. My understanding is that that is precisely what would happen.

So the result is, for the next 5 hours, we will have gatekeepers who require us to say: Captain, may I? May I offer an amendment? And they will say: No, you may not. We will not allow the setting aside of the pending amendments.

So we will limp along to the end of the 30 hours not being able to offer germane amendments to this bill. It is outrageous, simply an outrageous process that puts us here. I think there will be a good number of Members of the Senate who, in the future, will consider this and find ways to avoid our being put in this position again.

But what I would like to do is have a debate about this amendment at some point. And perhaps there are people in the Senate who want to stand up and say: Do you know what I think? I think if somebody takes home $50 or $80 million 6 months before bankruptcy, in the form of incentive payments and bonuses, they ought to be able to keep it, even if they drove this company right straight into the ground.

Is there one person who will stand up in the Senate today to support that? Does one person want to support that position? Well, we will see.

In the year before the Enron Corporation filed for bankruptcy, Kenneth Lay, the chairman of that company, and 140 other company officials received $310 million in salaries, bonuses, long-term incentives, loan advances, and other payments.

Does anybody here want to stand up and say: ''That makes a lot of sense.''? Anybody? Does anybody agree they should keep all that money? Do we hear nothing because they don't have the floor, or is it that nobody here believes the top officials of Enron should keep $310 million prior to filing for bankruptcy, where their employees lost they jobs, lost their life savings in their 401(k)s, their investors lost their money?

How about NTL, Incorporated? It is a Manhattan TV cable operator that filed for bankruptcy in May, just several months after it gave its chief executive officer $18.9 million. It made him one of the 30 highest paid CEOs in New York, putting him ahead of IBM's Louis Gerstner. That company had $14 billion in losses. And the CEO, Mr. Knapp, had a salary of $277,000, a bonus of $561,000, and stock options worth $18 million.

So does anybody here think he ought to keep all that money, just let the investors and the employees lose, but the people at the top keep it—just walk away on some gilded, golden carpet?

There are plenty of other examples, of course.

In recent months, we have heard all of these discussions about what has happened at the top in the boardroom by companies that wanted to find the line, and then go right to it, and then go across it, if they could. And there are accounting firms that were the enablers, who said: Yes, go ahead and do that. And the law firms were on the side, collecting big fees, saying: Yes, go ahead and do that—and the CEOs without moral conscience. The result is, they got rich and the little folks got broke.

My amendment is very simple. My amendment says that 1 year prior to bankruptcy, if you are getting the big bucks, big bonuses, big incentives, big stock options, and you want to take off with $50 or $100 million, and leave everybody else flat on their back, you cannot do it; you have to give it back. Very simple.

No one can misunderstand the amendment. This amendment is not strange or foreign to anyone. This bill will fall short of the mark, this bill will be incomplete, if we just proceed now to the final vote this afternoon and we are told: You cannot offer this amendment. We will not consider this amendment. And we do not want to require the give-back of millions of dollars by CEOs who receive that money prior to bankruptcy.

If that is the message this Senate sends from this bill this afternoon, this Senate has a lot of explaining to do.

We came to this debate with great promise. I have been to the floor a couple of times complimenting the Banking Committee, complimenting all on the Banking Committee who worked to put this bill together. But I said there were areas where it needed to be improved. This is one of them. This is the lightest load you will ever be asked to carry, in my judgment, to support an amendment of this type: The disgorgement of ill-earned profits by CEOs who led their corporations to bankruptcy but waltzed off with millions of dollars in their pockets and left everyone else—the bondholders, the stockholders, the employees—holding the bag.

This is not heavy lifting, to do this amendment. It is absurd if the Senate says: No, we will have nothing to do with that. Our position is, let's call this corporate responsibility. Let's change the accounting standards. But, by the way, let's let those people who essentially looted the corporation from the top—drove it into bankruptcy, and then left town—let's give them a big wave and say: So long, God bless you, and I hope your future is a good one with all those millions of dollars. If we do that, this Senate has a lot of explaining to do.

A good many corporate leaders, respected business officials in this country, have said this must be in a bill, this should be in a bill, there is no excuse for it not being in a bill.

So I have amendment No. 4214 at the desk. Let me ask unanimous consent that we set aside the Carnahan amendment, which is a second-degree amendment to the Edwards amendment, for the purpose of allowing consideration of amendment No. 4214. Let me make the first unanimous consent request first.

I ask unanimous consent that we set aside the Carnahan second-degree amendment for the purpose of considering my amendment.

The PRESIDING OFFICER (Mr. WYDEN). Is there objection?

Mr. ENZI. On behalf of the ranking member of the Banking Committee, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DORGAN. Mr. President, let me say, again, I think the process is an outrage—an outrage. We are in a situation today where we have 4 or 5 hours left postcloture, and we are told that no one in the Senate has a right to offer an amendment because someone has set himself up as a gatekeeper saying: I will object to setting aside the Carnahan second-degree amendment.

What kind of a way is that to legislate? Is someone afraid he will lose on this amendment, that he will lose the vote? Is that the purpose of the objection, that he is afraid we will have a vote, Senators will vote for my amendment, and therefore he will lose, so the words ''I object'' become a proxy for avoiding a loss on an important amendment?

How many votes do you think would exist in the Senate for saying: We want to enable CEOs, who ran the corporation into the ground and took $20 million out and then filed bankruptcy, to keep the money; we want them to keep the bonus, to keep the stock option, to keep the commission payment, to keep the money? How many votes do you think exist for that? Ten, maybe 12? Probably zero.

I think the Senator from Virginia is correct. Probably no one would stand up and support that proposition. So the question is why are we not allowing amendments to be voted on this afternoon? I would be happy to yield to someone to answer that. Is there someone who can answer that? Perhaps we could find out on whose behalf the Senator from Wyoming objected.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Dakota has 29 minutes remaining.

Mr. DORGAN. Parliamentary inquiry: Are we entitled, as a Senator, to 1 hour postcloture, those of us who are recognized?

The PRESIDING OFFICER. The Senator from North Dakota is correct.

Mr. DORGAN. Several of my colleagues wish to speak. I want them to be able to speak. I hope they will offer amendments.

I will guarantee them this: I will not be objecting to an amendment if they want to offer them. They have a right to offer an amendment today. They have a right to get a vote on the amendment. I will not object to that.

The parliamentary inquiry is, I have just made a unanimous consent request that has been objected to. Am I prevented from making an identical request following the presentation by the two Senators on the floor?

The PRESIDING OFFICER. The Senator is not prevented from making unanimous consent requests.

Mr. DORGAN. That will give me some time then to snoop around the cloakrooms and the corners and the nooks and crannies in the Capitol to find out who won't come to the floor and answer the question I have asked.

Why will we not get a vote on the simple proposition that those corporate leaders who run their corporation into bankruptcy and who take $10, $20, $30, or $50 million out of it just prior to bankruptcy—why will we not allow a vote on an amendment that would require them to disgorge themselves of that profit? Why should that ill-gotten gain not be used to help the employees, help the investors, help others recover, who lost everything? Why should one group in this circumstance walk off into the sunset with a pocketful of gold, leaving everyone in their wake, employees, investors, and others who lost everything they had?

Perhaps in the next hour or so, I will find someone in the Chamber or in the anterooms who will say: I am the one who decided you should not get a vote because I believe that those CEOs ought to be able to get away with that money; that is the American way.

My guess is the Senator from Virginia was right when he shook his head. I think this amendment passes 100 to nothing or very close to that, and I hope he and others will help me get it to a vote before 6 o'clock.

Obviously I am a little irritated about the process. It stinks. That is not a genteel way to say that. But postcloture, if we have germane amendments, we should be able to be here to offer those amendments. That is not now the case.

I will be here the next couple of hours trying to see if we can find a way to cause enough trouble in as short a time as possible to allow these amendments to be offered.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I would like to use a portion of my 1 hour of time to say I agree with the purpose and the intent of the Dorgan amendment. I understand Senator GRASSLEY of Iowa has a similar amendment that would disgorge or claw back into some ill-gotten gains of executives for the benefit of creditors and victims of their malfeasance or illegal acts.

I wish to speak not on process. Although, process seems to drive a lot of what happens in this body.

I would like to talk to my colleagues and the American people about the merits of certain ideas or the demerits of certain ideas that have been raised. There have been several measures dealing with the issue of stock options.

Senator MCCAIN's measure was a direct hit. I don't like it, but it was an accountable approach in getting rid of or killing stock options. We had Senator LEVIN's amendment, with Senator MCCAIN, which was more of an indirect or ricochet killing of stock options by granting that study to FASB, when everyone knows what FASB's position is.

There is another option regarding stock options which I would like to discuss as the approach that ought to be taken. The majority leader, Senator DASCHLE, mentioned that we may have a vote on it today. We may have a vote on it tomorrow, but some day we will have a vote. There ought to be a full and fair discussion of the approach we ought to take as well as what the potential adverse impacts could be if either the study by FASB or the direct

killing of stock options, as far as requiring the expensing of them, were to occur.

The more wise and prudent approach is one that was chiefly sponsored by my good friend Senator ENZI of Wyoming, along with Senators LIEBERMAN, BOXER, myself, and others who joined with us, Senators MURRAY, CANTWELL, BENNETT, WYDEN, LOTT, BURNS, FRIST, CRAIG and ENSIGN. Our amendment is a more comprehensive, reasonable alternative that has the Securities and Exchange Commission review and make regulatory or legislative recommendations to Congress.

Clearly, in today's climate, with the stock market dropping again today, with the scandals from Global Crossing, Enron, the crisis at WorldCom, it is axiomatic that there is a pressing need for accounting reform to address the corporate abuses and accounting firm malfeasance. The bill, as it is presented, is a very good bill. I think it addresses the two key areas that need to be addressed.

It is focused, number one, on transparency. That means that people can readily and easily discern the true financial condition of a company in which they may want to invest.

Secondly, you need deterrence, stiffer criminal and civil sanctions for illegal actions by corporate officers. There may be a few things added to make it better, but this bill essentially addresses those two focused goals. Indeed, enhanced transparency and improved corporate governance may restore some investor confidence and foster proper disclosure for investment decisions. More stringent penalties will provide a deterrence and substantial disincentive for the corporate wrongdoing that has led to this understandable firestorm of skepticism as a fallout from the scandalous, fraudulent misrepresentations by executives in many companies.

In our effort to reform, we must not enact measures that stifle innovation and endanger the American entrepreneurial spirit. Congress should not harm future opportunities for employees to own a part of their company for whom they work. Unfortunately, the Levin-McCain amendment does just that by unjustifiably upsetting the current tax treatment of stock options. It is unnecessary and unwise to change these particular accounting policies.

It is virtually impossible to accurately determine the worth or value of a stock option.

Now, how are you going to predict the future performance of a company? How are you going to predict the future share value of a company, especially with the vicissitudes of the stock market these days? For example, somebody is granted a stock option by a company—a new company—and the stock is trading, after an IPO, at $5 a share. The option to this employee is to be able to purchase 1,000 shares of that company at $10 a share.

Now, nobody is going to exercise a stock option until the share value reaches the strike price, or $10, and it may never get to $10. It may take 5 years before that share value gets above $10 a share, where somebody would exercise the option. So it is very difficult to determine what is the actual value of that stock option when it is granted.

The amendment Mr. LEVIN has proposed will affect current law. Currently employers are not required to expense stock option grants on their financial statements. But they are permitted to deduct the employees' gains at exercise—that is, down the road—as a compensation expense.

Now, this makes good sense. After all, a stock option grant does not require a cash outlay like other expenses such as wages.

Moreover, there is no transparency problem with failing to expense stock option grants because they are disclosed on the company's financial statement. If somebody says there ought to be better disclosure, or it should be in bolder print, or it should be highlighted more and the disclosure needs to be more clear, that is fine. But I don't think it is necessary, in the midst of better disclosure and transparency, to kill this otherwise largely salutary idea and beneficial idea of stock options. Nonetheless, the amendments by Senators MCCAIN and LEVIN mandate that any company taking a deduction must report the stock option as an expense on their income statement, profit and loss statement, and the deduction may not exceed the reported expense.

Mr. LEVIN. Will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. LEVIN. Is the Senator aware that the Levin-McCain amendment he is referring to is not the amendment being offered at this time? There is another amendment, and they are totally different matters involving the taxation issue. This is not a taxation amendment at all. Hopefully, it will come before the Senate today.

Mr. ALLEN. Mr. President, I say to the Senator from Michigan, I understand his amendment offered today was one to have FASB study the issue. Senator MCCAIN's amendment was one to require the expensing of stock options. I realize they are two different matters.

Mr. LEVIN. And that neither one addresses tax issues. That is a totally separate bill, not in either the McCain-Levin or the Levin-McCain accounting standard.

Mr. ALLEN. I say to the Senator that in the event you, in effect, require the expenses of stock options, that does affect the tax treatment and the desirability of stock options.

Mr. LEVIN. Thank you.

Mr. ALLEN. I thank the Senator from Michigan.

Now, the problematic aspect of these ideas is that, if you take away the current method of accounting and taxation of stock options, a company can only take a deduction up to the amount they expense at the time of the grant. Since the expense would be taken at the time of the grant, the tax deduction would be taken at the time of the exercise. If the value was too low at the time of the grant, then you are not going to get the full extent of your deduction. So the point is that if we are not careful here, with all these approaches of changing the tax treatment, changing the expensing rules, or having it be done by FASB, the result is a convoluted tax increase on companies.

Now, what will happen if these tax increases or this inability to actually determine the value of the stock option occurs, which may or may not be exercised at some unknown future date, all of this consternation, inaccuracy, unpredictability—the potential of actually a tax increase, in effect—many companies will find this tax and accounting scheme is so onerous they will discontinue offering options to all but maybe a few senior executives who can bargain for them.

I think the idea of doing away with stock options, or making them less desirable, is a substantial detrimental impact on not only companies but many, particularly those companies in the high-tech sector and small startups. New businesses have powered our economy in the last decade and, hopefully, they will do so in the future. Small companies motivate employees with stock options. That is the way they keep employees. Especially the startups who will get folks to serve on the board and pay them for that service in stock options.

I think it is a good idea for people to care about a company doing well in the future; not only looking for a paycheck, but also caring about how well a company will do.

Indeed, in the last 10 years, the number of workers who received stock options has grown dramatically—from about 1 million in 1992 to 10 million today. First, as I said, the benefits of stock options has enabled companies to recruit and keep quality workers. Absent stock options, many smaller companies lack the capital. They don't have the money to attract top-notch talent. Investors will be less likely to invest in companies that retain stock option plans because the company's earnings will be artificially deflated by this phantom expense.

Finally, and perhaps most important, stock options enhance productivity by providing employees with a greater stake in their company's performance.

Mr. President, these options are particularly important to rank and file employees who receive relatively modest salaries and wages. There is one company that has a pretty good presence in Virginia—Electronic Arts—which recently told me that stock options enabled many of its employees to purchase their first homes, to send their children to college, or to provide for their aging parents. Thus, the desirability of stock options as incentives is

readily apparent, and we should not adopt any measure that would effectively eliminate their use as a form of employee compensation.

That is not to say that I oppose all stock option reform. In fact, I fully support President Bush's proposal that requires shareholder approval for stock option plans. I think the idea of equitable treatment in the exercise of options by employees or executives is well founded. But I am joining with Senators LIEBERMAN, BOXER, ENZI, and others in offering the amendment that directs the Securities and Exchange Commission to conduct a comprehensive study and to make recommendations regarding the accounting treatment of stock options, which is the way to go.

We may introduce this proposal as a free-standing bill. Maybe we will not vote on it today but here is the approach that we ought to take. The SEC will conduct an analysis and make regulatory and legislative recommendations on the treatment of stock options in which the Commission shall analyze the following: No. 1, the accounting treatment for employees' stock options, including the accuracy of available stock option pricing models; No. 2, the adequacy of current disclosure requirements to investors and shareholders on stock options; No. 3, the adequacy of corporate governance requirements, including shareholder approval of stock option plans; No. 4, any need for new stock holding period requirements for senior executives; No. 5, the benefit and detriment of any new option expenses rules on, A, the productivity and performance of large, medium, and small companies and startup enterprises and, B, the recruitment and retention of skilled workers.

The Commission shall submit its regulatory and legislative recommendations to Congress and supporting analyses of those matters as far as any changes indicated in the treatment of stock options within 180 days.

In my view, this is the reasonable alternative we ought to be taking. I urge my colleagues to support this approach rather than adopting, whether it is today or in the future, Senator MCCAIN's measure that he introduced last week or Senator LEVIN's study today. I think either of those would be harmful and damaging to both American industry and to working men and women.

The Senator from Michigan mentioned evidence, or observations, of others as to the impact of his recommendations and his amendment. I think it is very good for us to look at what people who will be affected say about the measures that are passed in the Senate. I think it is important that we be accountable to those who are affected and we should listen to them.

I have some other observations, as far as the issue of stock options is concerned. This first I will share is the views of the Information Technology Industry Council. They expressed their support for the potential alternative amendment cosponsored by Senators LIEBERMAN, ENZI, BOXER, and ALLEN that would direct the Securities and Exchange Commission to examine the accounting treatment of stock options and make recommendations.

The Information Technology Industry Council stated that, in particular, those entrepreneurial high-tech companies that are willing to take the risk in the pursuit of technological innovation have offered stock options as an incentive to attract and retain employees.

Unfortunately, the expensing of options would end the practice of providing most employees with stock options. The result would be a reversal of the trends toward employee ownership and a significant reduction in financial opportunities for thousands of workers.

Let me share another observation, and this comes from the Telecommunications Industry Association, and I read, in part:

> This sense of personal ownership referring to stock options helps develop the innovative entrepreneurial spirit that has characterized the high tech industry over the last decade. Should the rules for options suddenly change and be treated as a cash expense, the number of employees that receive the benefit would be drastically reduced, most likely leaving only members of the top management as recipients.

They conclude with this comment:

> Adoption of this type of measure is a knee jerk reaction to situations such as occurred with Enron, which is not what we need. It is not in the best long-term interest of our country.

Another observation from a large group of trade associations: American Electronic Association, Bankers Association, Alabama Information Technology Association, the Arizona Software and Internet Association, Biotechnology Industry Organization, Business Software Alliance, Information Technology Association of America, National Association of Manufacturers, the Retail Federation, Semiconductor Equipment and Materials International, as well as the Semiconductor Industry Association, Software and Information Industry Association, Software Finance and Tax Executives Council, the Tax Council, the Technology Network, and the U.S. Chamber of Commerce wrote me and said that the stock options tax bill—not the Levin amendment but, rather, the tax treatment changes—that legislation would, if enacted, discourage broad-based rank and file access to stock options. It would lead to investor confusion, less accurate financial statements, and raise taxes on companies issuing stock options.

Now we have heard also some scholarly points of view. It is nice to hear what some of these esteemed individuals may say from time to time on the issue of stock options. Others in the body have quoted from Warren Buffett, a person for whom we all have a great deal of respect. But in another scholarly work from two gentlemen, economics professors at Princeton University and New York University, Dr. Malkiel, professor of economics at Princeton, and Dr. Baumol, professor of economics at New York University, say this:

> Warren Buffett and other critics suggest that the income statement should reflect an expense to the firm measured by the cash equivalent value of options. There are two problems with these views. First, if we were to consider the expense of options to be equivalent to that of cash wages, there is no way to measure that cost, the value of options at the time they are issued, with any reasonable precision. The Nobel Prize winning Black-Scholes model does an excellent job of predicting the prices at which short-term options trade in the market, but the Black-Scholes formula does not provide reliable estimates for longer term options such as those lasting 6 months to one year, and market prices often differ substantially from predicted values. Because employee stock options have durations of 5 to 10 years, are complicated by not investing immediately, are contingent on continuing employment and subject to various restrictions, it is virtually impossible to put a precise estimate on the options value. Moreover, employees' options cannot be sold, violating one of the key Black-Scholes assumptions.

They conclude by saying that by targeting all stock options rather than stock option abuses, politicians are risking destruction of equity compensation instruments that have been engines of innovation and entrepreneurship.

Finally, an observation today from the Software Finance and Tax Executives Council. They call themselves by the acronym SoFTEC.

> SoFTEC believes that Senator LEVIN's amendment essentially dictates a pre-determined result without requiring the FASB to analyze other relevant issues surrounding stock options. Rather than mandate FASB to achieve a predetermined result, SoFTEC believes that the SEC currently has the ability and authority to properly study all of the issues surrounding stock options and make recommendations based upon not only the technical accounting issue but the public policy implications as well.

So I will conclude my time by requesting of my colleagues, whether we vote on it today, this afternoon, this evening, or in the future, that we act responsibly. It is fine to be worrying about the details of procedure and accounting minutia, but it is important also to understand the impact of this on our free enterprise system. While we are doing a lot of good as far as greater scrutiny, greater transparency, and greater punishment for wrongdoers are concerned, let us make sure we do no harm because the way that this stock market is going to change is with more investment, more risk taking, more jobs being created, and that entrepreneurial spirit that rewards people who take risks, who are creative, who are innovative. That is what is going to improve our economy, our competitiveness as a country, as well as the stock market eventually.

The point is we do not need to come up with new, convoluted ways to increase taxes on companies that we want to invest in and improve our

country, and I hope we will support the free enterprise system and, in doing so, look at reasonable, logical, wise, and fully comprehended decision-making as we move forward in these very uncharted waters of making major changes in stock options.

The bill as it stands now is an outstanding bill. There can be improvements made to it, such as the amendments of Senator GRASSLEY and Senator DORGAN, but let us not have the perfect be the enemy of the very good, and let us make sure we do no harm. By fouling up stock options for many men and women working in this country, it would certainly do a great deal of harm.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. I think the Senator from Delaware was first to seek recognition.

Mr. BIDEN. Mr. President, I say to my friend from Iowa if he has a time constraint, I will yield to him. Just so he knows, I was in the Chamber before he came. I took a phone call and came back. But if the Senator has a time constraint, I have 10 to 12 minutes, but I will be happy to yield.

Mr. GRASSLEY. If I only have to listen to a 10- or 12-minute speech, I will be glad to wait.

Mr. BIDEN. I hope the Senator listens very closely. He may learn something. I know I learn when I listen, and I do not always listen enough.

Mr. President, let me begin where the Senator from Virginia ended, and that is that I think the bill fashioned by Senator SARBANES and this committee does exactly what the Senator from Virginia was suggesting. That would be balanced; we do not do more harm than good.

If you look at other times—and I have been a Senator for a while—we faced crises such as this, we have had occasion to overreact. We have found sometimes that the cure is worse than the disease. I note we probably did that in my early days here with Senate campaign financing and other issues.

There is a real balance that the Senator from Maryland has struck. I compliment the Senator. I cannot think of any Senator better positioned to be chief spokesman for the Senate and Congress on this issue, not only for the American people but all our allies and the investors worldwide.

The dollar now has weakened drastically. In my capacity as chairman of the Foreign Affairs Committee, I have had occasion to meet with leading government officials from European countries and from Asia, asking me, as if I were some kind of broker: Can we continue to invest in your market? Is it real? What is going on? How much more is coming?

We are fortunate to have the steady and always cautious voice of the Senator from Maryland, whose background academically as well as politically suits him well, and in this moment, as probably no one else in this place is better prepared, to take on this issue. I compliment the Senator and his quiet, reasoned voice, and his profound understanding of the problem we face as well as his determination to move ahead and try to restore confidence. It is a welcome circumstance at the moment. I compliment the Senator.

I realize from listening to him and knowing him as well as I do, as a point of personal privilege, some will discount my remarks because they know the Senator and I are close personal friends and I admire him as much as anyone I have served in all my years in the Senate. I understand there are other things that he may or may not have wanted to put in the bill to strengthen our position and the Nation's position and the economy, but he wants to make sure there is consensus and overwhelming support of whatever we do. This is not a circumstance of questioning motives and wondering whether it is more for show than for serious reconstruction of the circumstances.

I say at the outset, I have one disagreement with the President of the United States. Although there probably, pray God, are only a ''few really bad apples''—I think that was his phrase—in the corporate world, I do think we have a systemic problem. The marvel is that there are so many men and women in corporate America who have high moral standards and have overcome a fairly overwhelming temptation that exists in the way business is being done, the way in which we have loosened some of the not regulations, loosened some of the oversight on corporate America. It is a testament to the fact that there are so many honorable people running America's major corporations and multinational corporations.

The fact is, we have a systemic problem which leads me to my friend from Michigan, Senator LEVIN. Senator LEVIN, Senator MCCAIN, Senator CORZINE, Senator EDWARDS, myself, and several others, in varying degrees, think what this debate is all about is fundamental fairness and efficiency of our economy. A lot of what we read about these days is focused on corporate scandals, individual villains, their schemes, their greed. There is plenty of that and maybe more than I can remember any time in my Senate career.

I believe we need to focus on the behavior of corporate executives who have betrayed their positions of power, recklessly endangering the careers of tens of thousands of employees and the savings of millions of Americans. That is why it was so important the Senate unanimously adopted my amendment last week and the amendment which was contained in that of the Senator from Vermont for stronger penalties for corporate crime.

In the hearings I have held in my criminal law subcommittee in the Judiciary Committee, I made clear from the outset—and I try never to overpromise what criminal law can do, even though we are only now finally beginning to rectify and make our criminal justice system reflect our values more clearly—that is not a solution. It is a part of a solution. The Senator from Iowa and I conducted hearings in that subcommittee. We have asked for stronger penalties. We have passed them. One small example: If you were to violate the Federal law relating to pension security, ERISA, it is a misdemeanor that could cost someone their entire pension or 1,000 people their pensions, totaling hundreds of millions of dollars. It is a misdemeanor. All you get is up to 1 year in jail. Yet if you steal my automobile—I live 2 miles from the Pennsylvania State line, in Delaware—and you drive across the State line into Pennsylvania, you get 10 years under Federal law. Something is awry.

Criminal penalties are not the answer. They are just rectifying this incredible inequity within our system. Hopefully we are beginning to reestablish some sense of faith in the system where average people think big guys get away with it and little guys go to jail.

Punishing and deterring corporate crime, although it is a major part of our response to excesses committed by some of the most privileged and powerful corporate executives, is not enough. We face another fundamental problem. It is the loss of trust in our system, most apparent, perhaps, in the recent drop in the stock market. More than 200 off the DOW in the days following the President's speech, and when I came to the floor the DOW was down 300 points. I don't know where it is right now. I hope and pray to God it has moved up.

The fact is, there is a profound lack of confidence at the moment in our economy. There used to be a chairman of the board of the Dupont Company, a big, old farm boy from Ohio. He had great big hands. I remember, he was a wonderful guy, a first-rate chemist, first-rate scientist, as well as corporate executive. I was meeting with him one day and said: We have a problem; we are in the hole. And he turned and looked at me and said: My father always said, Joe, when you get in the hole, stop digging.

Maybe the President should stop making speeches for a couple of days. He has spoken twice and the market went down 500 points while he was speaking. It is not because of a lack of anything in the President, but people are looking for real change. They assume that if there is any rhetoric, it must not be likely to be followed by something real.

The Senator from Maryland has done something real. What the Senator from Utah and his committee has done is real. This is real. This underlying bill is real; it is positive; it is substantial. The bottom line is, no pun intended, there is a profound lack of confidence

at the moment and that our economy can be shaken right now to the very foundations of our market democracy. For a market democracy to work, we have to have faith in our economy that will continue to create opportunities for job advancement and that our Government will continue to promote, as our Constitution requires, the general welfare.

In recent months, to be reminded how much we have in common, how much of our unique blessings we have come to take for granted prior to September 11, we were reminded that in the end we are all in this thing together. Among those blessings we had come to take for granted was the most dynamic economy in the world, that had just come off the longest, strongest expansion in history. In the new economic arena, we are now reminded how much we depend on trust in each other to make our markets work.

That sounds silly. No one was using the word trust before when we talked of the market economy. We talked innovation, the new economy, productivity, et cetera, but when you cut it all aside, it is all based upon trust, which is based upon transparency. If you cannot get out there and make your judgment to invest or not invest in a corporation with a clear sense that you have been told everything that is reasonable to tell you about the state of affairs of that company, then you might as well play the lottery.

You might as well come on over to Delaware and play the slot machines at Delaware Park. You have about the same shot, unless you are on the inside.

The task we are debating today is how to restore the strength of our economy, which is to restore the trust. At the core of that task is revival of confidence that consumers and investors, including foreign investors, need to get back into the market.

This is going to turn around, Mr. President. You and I both know it. I am absolutely sure it is going to turn around. The question is, how many bodies will be littered along the way; how many pensions will be lost; how many jobs will be lost; how long is it going to take? It will turn around.

I am sure the greatest strength of our system continues to be its resiliency: Our ability to see change as opportunity. I am sure of that because we have met this kind of adversity before. Every time we have come out stronger.

I remember when the Senator from Maryland and I were on the Banking Committee in those dark days of the savings and loan crisis. We made it through. We made some very difficult decisions that, I might add, Japan and other countries have not made, and it resulted in an even stronger economy. So I am confident we can come out of this stronger.

After the glare from all the glitter during the boom phase and as our vision becomes a lot clearer, we know that our economy is, in fact, fundamentally stronger than it was, notwithstanding what is going on now. Productivity gains were real. Information technology and corporate reorganization created real growth. It was not imaginary. It was not like these profit margins that people were suggesting they had on the balance sheets that were a lie. There actually was growth.

The economy, the marketplace has created real growth. In what economists like to call the real economy where jobs are created, where goods are produced, the real economy is faster and more efficient today than it was a decade ago. Even old industries in our manufacturing sector have gained from advances in new materials, as well as improvement in information sharing and organization.

We also know that a lot of what looked like growth, particularly in the financial sector, was only paper profits and a lot of it was written in disappearing ink. Profits and paper valuations were all too often inflated by wishful thinking, by self-dealing analysts, by accounting gimmicks, and by outright fraud.

The amendment I am proud to support offered by Senators LEVIN and CORZINE and others addresses one of the most glaring problems behind those inflated profit statements that fueled the stock boom that is now unwinding.

Stock options are, as advocates tell us, a useful device. They can reward employees when companies are so young that they have little else to offer. Of course, we all want to encourage startup companies in every responsible way we can. Also, stock options in theory, and sometimes in practice, keep employees' and corporate officers' incentives tied to the growth of their companies, but unlike virtually every other kind of compensation the firm can give its employees, stock options do not have to be listed on annual reports as an expense, and that means the more stock options you give, the less compensation you have to report, the lower your reported expenses, the higher your reported bottom line.

That part is simple, and that is a big reason stock options became so attractive not only for the good things they can do, but also for the convenient way they inflated earnings statements and I would even say, if I want to go overboard and defend corporate America, even defending those corporate executives who when they take the train up to Wall Street and have some 30-year-odd or 35-year-old guy sitting around a table saying: OK, what are you going to do next quarter? And giant companies that are strong and mature would say: We are going to do as well as last quarter. That is not good enough. We are going to downgrade your stock and your company.

I remember one CEO of a major Fortune 10 company telling me, I have to do one of three things: I have to say, so be it, and keep on the long-term course or go out there and find some new product on the shelf, which I wish I had, that could increase productivity and profit, or go home and do something. The ''do something'' usually meant go home and cut the number of employees you have, cut expenses.

Guess what. I do not think these are bad, evil, and venal people. They went home, and there is an easy way to do it. Let's make sure compensation is not reflected as an expense. So instead of paying the top executives an additional $15 million in compensation, give them stock options. Guess what. The bottom line looked $15 million better than it did before.

That is not rocket science, and it may have been produced by Wall Street's desire for immediate gratification, immediate response. Whatever the reason, it turned out to be as much of a liability in the literal sense, as much as a damaging impact as the good things it could do by tying the employees' fate as well as the CEO's fate to their company.

I see my friend from Utah standing. Does he want to ask me a question?

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

Mr. BIDEN. I will be happy to yield.

Mr. BENNETT. Mr. President, the Senator is going into territory I will deal with in my statement, but to keep it all in context as he is talking, I must raise this question. The Senator is one of the historians of the Senate. He has been around a good long time and probably will be around for longer than I will.

Does the Senator from Delaware remember that in 1993 when we increased taxes in the Clinton tax increase, we also put a limit of $1 million on the total amount of deductions a company could take for salary for its employees?

In other words, that CEO could not be paid over $1 million for his or her services and have the company deduct that as a legitimate expense for tax purposes.

Mr. BIDEN. To be honest with the Senator, I do not remember that.

Mr. BENNETT. Will the Senator agree that might have been part of the reason why companies, in an effort to attract and hold the best executive talent, would have moved away from traditional compensation, that the Senator and I both understood when we were growing up and applying for jobs, and into the more esoteric area of stock options because stock options were, in fact, not deductible; whereas, good old-fashioned pay for services rendered was given a tax disadvantage as a result of the Clinton tax bill?

Mr. BIDEN. In response to the Senator, I have to check more closely. I have great respect for my friend from Utah. Based on what he says, it seems to me it would have had a negative impact rather than a positive impact. That is one of the things we talk about at the front end.

Whatever we do here should have a positive impact. There is something else stock options do, too. Because

stock options are predominantly awarded to top executives, they are a great way to give yourself a sweetheart deal, with a powerful incentive for executives to look for ways to inflate stock prices so their stock options, at least for a while, are worth millions, even hundreds of millions of dollars.

Here is what Business Week said about stock options back in March:

> Options grants that promised to turn caretaker corporate managers into multimillionaires in just a few years encourage some to ignore the basics in favor of pumping up stock prices.

And pump they did. Here is how much stock options distorted the bottom line for some of the biggest and best companies in America. One study by a London-based consulting firm, Smither and Company, looked at the use of stock options by 145 of the largest U.S. companies.

They found that those firms overstated profit by 30 percent in 1995, 36 percent in 1996, 56 percent in 1997, and 50 percent in 1998.

Other analysts, including the Federal Reserve, have found the same thing.

These are huge distortions in the picture the public was given about these companies and a huge distortion in information investors were using to allocate capital. That kind of distortion was clearly a big factor, maybe in addition to what my friend from Utah says, in driving up those stock prices that are now falling back to Earth.

This is no simple problem. The 200 biggest firms now allocate more than 16 percent of their stock in options. Let me repeat that.

The 200 biggest firms now allocate more than 16 percent of their stock in options, mostly for their very top executives.

The potential for distortion and the temptation to distort is great.

Remember these stock options are predominantly given to top executives.

One study in 1998 found that 220 of the top managers at Fortune 500 firms received an average of 279 time the number of stock options awarded to each of the firms' other employees.

Two hundred and seventy-nine times what ordinary employees got.

Despite the increased use of stock options this is clearly a device top management has largely preserved for itself, and the kind of incentives they created are now all too clear.

This amendment takes what I believe is the most restrained and most careful approach to the problem of stock options.

It does not legislate accounting standards, and it does not dictate outcomes.

It tells the Financial Accounting Standards Board that it is given new resources and new independence by the underlying Sarbanes amendment. It provides for FASB to come up with appropriate techniques to account for stock options, it does not dictate a one-size-fits-all at this moment, and it gives them a year to do it.

This is not about Government intervention this is about getting us out of the way of what every expert from Alan Greenspan to Warren Buffett and FASB itself says should be done.

It does nothing to interfere with the issuing of stock options.

It is about giving shareholders and investors the information they need to reassert their control over America's corporations. That will help to promote companies' long-term value, and reduce the temptation to pump up short-term stock prices.

This amendment can help promote a stronger form of stockholder democracy, to cure a system that a greedy few have turned to their own personal advantage. That kind of democracy needs openness and clarity—honest information to make informed decisions.

This amendment is real reform, and I urge my colleagues to support it.

I thank my friend from Utah for his intervention, and I thank my friend from Iowa for listening.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I yield to the Senator from Virginia, just to make a unanimous consent request.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Virginia.

Mr. ALLEN. Mr. President, I yield the remainder of my hour to Senator GRAMM, the Senator from Texas, who is the Republican manager of this bill.

The PRESIDING OFFICER. The Senator has that right. Time is yielded. The Senator from Iowa.

Mr. GRASSLEY. Before I forget, Mr. President, I make the request that the unused portion of my hour that I will not be using here, I would like to also have given to the Senator from Texas.

The PRESIDING OFFICER. The Senator has that right.

Mr. GRASSLEY. Mr. President, I have five amendments I filed: (i) An amendment providing for a team of oversight auditors, (ii) an amendment providing for prebankruptcy bonuses paid to top executives be pulled back into the bankrupt corporation's estate, (iii) an amendment providing the Securities Exchange Commission with disgorgement remedies, (iv) an amendment providing that auditors who sell tax shelter products cannot opine on the financial effects of the tax shelter deal; and, (v) last, an amendment providing whistleblower protection to the accountants and others who want to disclose financial statement misconduct.

I am pleased, in regard to the last amendment I just announced about whistleblowers, Senators LEAHY and HATCH accepted that proposal as part of their amendment which has been adopted.

I am not going to speak about the other four. I am just going to speak about one of those. It is the first amendment I put on my list, an amendment providing for a team of oversight auditors.

As I said, I congratulate my colleagues, Senators SARBANES and ENZI on their hard work in moving S. 2673 out of Committee and bringing the bill to the floor for further debate. The reform bill is a great step in the right direction for tackling some of the difficult accounting problems our Nation currently faces. Nevertheless, I believe the reform bill isn't quite tough enough on several issues and should be strengthened further, consequently, the amendment.

In my view, the recent rash of accounting scandals did not result from incompetency or lack of rigorous training of accounting professionals. Neither has the problem lied principally with misguided auditing standards known as GAAS or ill-considered accounting rules known as GAAP.

The Worldcom debacle, among others, further demonstrated that the problem does not rest entirely with a company's external auditors—whose best efforts may not detect financial misrepresentations if fraud is repeatedly covered up by corporate insiders or contrived to defeat established internal controls. Instead, each of the most recent corporate accounting scandals appear to have arisen from egregiously bad behavior of corporate insiders and internal accountants—with varying degrees of complicity by those companies' external auditors.

Thus, as a matter of principle, I agree with the ''bad apples'' theory being offered by many. However, I believe addressing those bad apples requires additional oversight—and not just of a company's external accountants but of the internal accounting function itself.

To that end, I further respond to the President's call for increased oversight and would like to offer an amendment that would strengthen the provisions Sarbanes-Enzi bill by expanding the powers of the oversight board to require the performance of ''spot audits.'' The underlying bill which focuses on monitoring external auditors woud be amended to provide additional board oversight of internal corporate accounting.

Specfically, my amendment would charge the Board with responisibility for conducting oversight audits or ''spot audits'' of public companies. The board would serve in a role analogous to the Internal Revenue Service or the Federal Bank Examiner. The IRS, for example, achieves voluntary public compliance through review of a very limited number of federal tax returns each year. The IRS does not verify each and every tax return. Similarly, the Federal Bank Examiner sporadically and randomly audits various banks throughout the country. Such ''spot auditing'' has been an extremely effective oversight tool for the banking industry and one which has resulted in higher levels of regulatory compliance. In similar fashion, I believe that accountants and corporate America will prepare more carefully their financial

statements if exposed to the risk of compliance review by the board's oversight auditors.

Even in self-regulated form, the accounting industry has long recognized the need for a second level of review. To that end, 24 years ago the ACIPA established the peer review process by which one accounting firm would review audit work of another accounting firm. For example, Deloitte & Touche was for many years the assigned peer reviewer of Arthur Andersen. Industry-wide self-checking on top of industry self-regulation seems ill-conceived and has been widely critized for its effectiveness by lawmakers and the SEC.

Over the past 25 years, a Big Five accounting firm has never issued a qualified report against another Big Five accounting firm at the end of any peer review despite the subsequent discovery of numerous irregularities including numerous conflicts of interest from stock ownership in audit clients. This recognized need for a second level of review is longstanding although the mechanism originally established by the accounting industry seems to have proven largely inadequate.

Some may ask why the Board should be granted powers which may be exercised currently by the SEC. The answer is simply resources. Providing an effective mechanism for spot checking the books of various issuers requires a dedicated audit staff to carry out those purposes. Having resources dedicated to a regulatory review process would allow the oversight board to take a proactive approach in reviewing for accounting irregularities and take the SEC out of a purely reactive posture with respect to corporate accounting fraud. The SEC has done a great job of investigating corporate scandals once detected. Unfortunately, by the time many of the recent scandals were discovered, things had progressed too far. We were unable to salvage the companies and the life savings of thousands of employees and shareholders. I believe the oversight auditor would provide a deterrent to committing fraud when coupled with tougher criminal sanctions. I further believe that earlier detection could prevent the absolute destruction of companies in which fraud remains uncovered for too long a period of time.

I note that the concept of an oversight auditor within the public oversight board was rejected in the accounting reform proposal offered by the SEC and Harvey Pitt on June 20. The draft emphasized that the SEC's vision of a newly created public oversight board reassured corporate America that the newly-created oversight board would require the cooperation of audited corporations ''only to the extent necessary to further . . . reviews or proceedings regarding the [audit corporation's] accountant.'' The draft further promised that the new oversight board would not conduct ''roving investigations'' of audited corporations nor would the board sanction those corporations. It occurs to me that by shifting exclusive focus and responsibility to accounting firms, we ignore the underlying behavior of corporate wrongdoers who have principal responsibility for fair and accurate financial reporting to corporate shareholders.

Under my proposal, the newly created oversight board would be charged with reviewing the financial statements of issuers and focusing its resources on highest-risk audit areas and questionable accounting practices of which it is aware from the SEC Division of Enforcement or other sources such as whistleblowers under provisions I heartily supported.

Upon discovery, the board would refer findings of possible accounting or auditing irregularity to the Division of Enforcement with respect to issuers or other appropriate federal and state enforcement officials such as the President's newly-created Fraud Task Force within the Department of Justice. This referral mechanism would ensure that those agencies continue to have primary authority and responsibility for conducting comprehensive corporate investigations of possible wrongdoing. The oversight board, of course, would have authority to conduct investigations of possible wrongdoing with respect to the involvement of accounting firms within its jurisdiction.

That is a basic summary of what this amendment would accomplish. I urge my colleagues to support establishment of an oversight auditor as a means of improving the compliance of corporate issuers and their external accounting firms and detecting irregularities at a much earlier point in the system when a shareholder value remains salvageable.

It seems to me that my amendment comes down to just a simple case of common sense. As I think proven so many times before, auditors need to be audited in the same way the IRS does it for tax returns and in the same way bank examiners do it in the case of bank audits. If auditors know their work will itself be audited, they will think twice about looking the other way on shady deals, as we have seen.

My amendment would put some very specific teeth in the Sarbanes-Enzi bill.

At this point, I was hoping the Senator from Texas was going to be here because I have done so much for him on a lot of Finance Committee bills. I'm referring to tax bills, including the recent CARE bill and the recent energy bill. I have helped him with so many amendments that he wanted. I was sure he would be willing to help me get unanimous consent to get my amendment up, particularly in light of the fact that last week I was assured when it wasn't on the list that it would be on the list. Then I came back and found that it meant being last on the list.

Now we are getting down to the end. I would like to have what I consider kind of a commitment, although it probably is not an ironclad commitment, that I be on the list, and, obviously, I would be able to get a vote on my amendment.

At this point, I ask unanimous consent that the pending amendment be laid aside for the purpose of taking up my amendment just described, which is amendment No. 4232.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. In light of the discussions, I have to object.

Mr. GRASSLEY. Was the President going to put my unanimous consent before the Senate?

The PRESIDING OFFICER. I did.

Mr. GRASSLEY. I did not hear the President do that.

The PRESIDING OFFICER. The Senator from Wyoming objects.

Mr. GRASSLEY. Mr. President, before I yield the floor, I would like to have just a short discussion of something that bothers me. In the Senate we have a right to be, and a responsibility to be, intellectually honest about these issues with which we are faced here.

I have heard so much during this debate—not so much during the debate, because that wouldn't be fair, but more probably in news conferences held by Senators on the other side of the aisle—about the Democrats wishing to use Enron and WorldCom events very much as, I think, political issues. I think maybe the Democrats are hoping for a ''November storm'' in which our economy is weak and no progress is made on accounting reforms.

As this bill goes through the Senate, through conference, and comes back, I hope we will realize that there is enough blame to go around. But, most importantly, I think it is wrong. For instance, the distinguished majority leader on ''Face the Nation'' recently attributed the current crisis to the alleged ''permissive'' attitude in the Bush administration towards business. I didn't see any ''permissiveness'' in the President's speech last week. I don't think very many people did.

But I think we also need to remember, while a lot of this mischief was going on by corporations, that during the decades of the 1990s and now in the 21st century there were 2 years in which Democrats controlled Congress. In those two years, we had a Republican President. That was the first Bush Presidency. There was a period of time when the Democrats controlled both Houses of Congress and the White House. That was 1993–1994. Then there were 6 years that Republicans controlled the Congress—1994–2000, and the Democrats controlled the Presidency. Then there were 135 days last year that Congress was controlled by Republicans, and the President of the United States, but only 135 days out of a 12-year period of time, if you want to use the 1990s plus now. And what has happened has happened on the watch of both Republicans and Democrats.

I think that to say a President has been President 18 months and this crisis before us is because of a ''permissive'' attitude in the Bush administration towards business just doesn't hold water.

I have a chart behind me. I hope I am very clear in making this more accurate than what I just said. The yellow is the 2 years of the Bush administration going back to 1994, and the other color covers the Clinton administration. But let's forget about the Bush administration and the Clinton administration. Let's just realize what the facts are.

In the case of Enron, it became public in the year 2001, but the restated earnings and the mischief went on all the way back to at least the beginning of 1997 because 1997, 1998, 1999, 2000, and the first two quarters of 2001 were restated earnings.

Adelphia: Half of 1998, all of 1999, all of 2000—before they were public in 2001—but restated earnings for all those.

Go down to Xerox. It was found by the end of the year 2000 everything that was done wrong in Xerox. The restated earnings of 1997, 1998, 1999, and 2000 came before there was ever a President George Bush.

There were restated earnings for Rite Aid for 1998, 1999, and 2000. You can go down the list. What the chart says, better than I can say, is that it is not a permissive attitude by this President that has put us in this position. It is because of the lack of transparency that was implied in what the accounting profession and audit committees and boards of directors, who ought to be watching management, were doing, and the Securities Exchange Commission under the spirit of the 1933 law of what they should have been doing. I suppose there are a lot of others as well.

But now politics should be put to the side. We should not be making these statements. We ought to be correcting the situation so that people have confidence and so that the crooks who are running our corporations and doing these things that are evidenced here. When I say ''crooks running our corporations,'' I mean the ones who would do this sort of thing to their stockholders and to the country and to the economy—so that they cannot get away with that in the future.

That is what this bill is all about. I complimented Senator SARBANES and Senator ENZI about this bill. I think it would have been improved with my amendment. But, quite obviously, that is not the way the game is being played. So I am sorry that my amendment could not be put to a vote.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I have spent most of the afternoon in the Chamber listening to this debate, which I have found to be illuminating, occasionally informative. I want to do what I can to perhaps add to the information, if not to some of the light.

I made reference, in my colloquy with the Senator from Delaware, to the decision that was made by the Congress back in 1993 to put a limit on the amount of compensation that executives could receive in terms of traditional dollar salary. And the limit was $1 million.

I remember some of the rhetoric that flew around this floor at that time, filled this Chamber—how terrible it was that people were being paid these outlandish salaries and that somehow it would benefit the people at the bottom of our economic ladder if there was a limit placed on those salaries. And so recognizing that they could not outlaw the salaries, Congress could do the next best thing—or, if I might say, the next worst thing—and say: All right, they can pay themselves these big salaries, but, by George, we will not allow a tax deduction for anything over $1 million.

Then, recognizing that would probably produce all kinds of difficulty, Congress said: Except in a number of areas. And one of the areas of exceptions was that nonsalary compensation could exceed $1 million and be expensed if it were approved by the shareholders.

In my view, this was a strong incentive to move towards stock options. After all, if you are running a public company and your services are worth $5 million or $10 million on the open market, you are not going to stay with a company that will only pay you $1 million in cash if a competing company will come along and offer you the $5 million or $10 million you think you are worth in the form of other compensation.

So as we get lyrical around here about how terrible stock options are, and how stock options lead to all kinds of excess, we should remember that Congress, in its excess of enthusiasm for a form of wage and price controls, helped contribute to this situation.

We do not like to have institutional memory. We do not like to be held accountable for our actions 4 our 5 years after those actions are taken. But, in this case, I think it is appropriate for us to remember the past while we are getting so exercised about what it is we plan to do in the future.

If I might, Mr. President, be a little autobiographical for a moment, I would like to trace my own experience with stock options. I have reflected on this, and I think it has perhaps some value in this debate.

I was working for the JC Penney Company in the mid-1960s. I was interested, when I went to work for the Penney Company, to find out that company had a tremendously innovative and singular form of compensation; that is, no one in the company was paid more than $25,000 a year—no one. The president, the chairman of the board, none of the vice presidents—no one was paid more than $25,000 a year.

There was a pool of profits that was created, and in addition to your $25,000 salary, you were given points in the pool. It was assumed that the pool was divided up in such a way that any one point in the pool was worth $1. So when I went to work for the Penney Company in 1964, my salary was, as I recall, $10,000 a year. I was not important enough to get to the exalted $25,000 a year stage. But I was given 2,500 points in the pool, which meant that if the company met its earnings objectives, I would get another $2,500; in other words, my real salary would be $12,500.

So I did everything I could to make sure that every point in the pool was, in fact, worth $1. I did what I could to turn off the lights. I did what I could to save expenses. I did what I could to drive sales so that the company would meet its goal.

My memory is that in one of those years each point was worth 93 cents; that is, the company fell 7 percent short of its projection. And every one of us in the company who was having that kind of a salary circumstance felt that 7 percent hit. In the example I have just given, instead of getting another $2,500 at the end of the year, I would have that $2,500 shaved by 7 percent. I would get my $10,000 salary, plus 93 percent of the additional $2,500.

There were stories in the Penney Company that were legendary about managers who would get transferred from one Penney store to another. At the time, as I recall, the limit was not $25,000, it was $10,000. So $10,000 per year was the maximum anyone in the company was paid. A store manager who was transferred from a relatively small store to a relatively large one in a large city was sure he was going to get a big raise. He got his first check, and it was for $10,000 a year. And he said: But my expenses are higher. I am running a store that is two or three times bigger. It doesn't matter; you get $10,000 a year. At the end of the year, when they added up the profits of that store, he got a bonus based on the profits of the store he was managing, and the bonus was about $100,000. Well, he had an obvious incentive to see to it that store was profitable.

What does any of this have to do with stock options? That system that was followed by the Penney Company that helped drive its growth all those years—where compensation was tied to performance, not only your personal performance as in the case of the store manager I described but in the company's performance, as in my own case—that program was scrapped. We went to a more traditional kind of compensation. As part of the traditional kind of compensation, we had stock options.

I got a little comfortable with the old system because I remember 1 year where each point in the pool was worth $1.23. The company did much better than it had anticipated, and I got a 23 percent upward kick in my compensation.

I questioned: Why are we getting away from this because it seems to me this works?

The answer was: Wall Street requires it.

Well, that wasn't enough of an answer for me. I said: What do you mean Wall Street requires it?

They said: The analysts at Wall Street have said to us, until you give stock options, we are not going to believe that you are serious about the future of your company because stock options are not tied to immediate profits. Stock options are tied to future profits. And until you put some of your compensation to your executives and key employees in the form of stock options, we will not believe that you believe the future of your company is as bright as you say it is. We want them to have a stake in the future.

So as it was explained to me, in the scrapping of this unique compensation plan that I think the JC Penney Company was the only company in the country, if not the world, that followed it, in the scrapping of that plan, you had to adopt some form of stock options. So they did adopt stock options.

I didn't stay around long enough to take advantage of them. I entered the Nixon administration in 1969 and gave up my vesting in a number of circumstances at the Penney Company. Frankly, I was a little nervous about that because I thought I had a bright future financially if I had stayed at the Penney Company. And again, as I say, at the end of the year, when they sent me the money that had been accumulating in my behalf during the part of the year I worked there, each point was worth $1.23. That said to me, once again, how much more money I would have had if I had stayed with Penney instead of coming with the Government. That is a separate issue. I will not go down that road any further. I am glad I made the decision I made. I probably would not be a Senator if I had not.

The point is, the compensation of employees should be tied to the future and benefit and prosperity of the company, and stock options were created with that in mind. What we have seen them become, since 1993, when they were not available as part of an intelligent compensation mix, but they were made more valuable by tax treatment by the Congress making an accounting decision, what we have seen is that stock options have accumulated the bad name we have been hearing about here on the floor. I am not sure I agree with everything that has been said about how terrible stock options are, but I do recognize they have led to some excesses.

In the New York Times, on July 12, there was an editorial signed by Walter Cadette, senior scholar at the Levy Institute of Bard College and retired vice president of J.P. Morgan. With a background at J.P. Morgan, in my view, he has a little bit more credibility than some of the people who write editorials for the New York Times. But he made the same point that has been going around the floor here in some of the rhetoric when he says:

> Options . . . hold out the promise of wealth beyond imaging. All it takes is a set of books good enough to send a stock price soaring, if only for a while. If real earnings are not there, they can be manufactured—for long enough, in any case, for executives to cash out. This, in essence, is what happened at Enron, WorldCom, Xerox—indeed, at quite a long list of companies.

That is not congruent with the explanation about stock options I received back in the 1960s, when I had my first opportunity to participate in stock options in a Fortune 500 company. That is something that is new, that has come along.

So we are back to the fundamental question of this bill, which is, How do we account for the performance of a company in a way that will allow investors to make an intelligent judgment about the value of the company?

That is the fundamental issue here. It is fundamental enough that I think I ought to repeat it: How do we account for the performance of the company in an accurate enough manner to allow investors to make an intelligent decision about the future of that company?

Some will say to us: That is a very easy question to answer. Congressman GEPHARDT has been quoted in the press as suggesting that accounting is a science. It is a simple matter of black and white, of adding 1 and 1 and getting 2.

That is not the case, however much we would like to believe that is the case. Yes, when you are talking about some aspects of accounting for a company's performance, it is a simple matter of adding up the numbers and reporting them. But in a company as complex as today's modern industrial corporation, there are a whole series of judgment calls that must be made. It is not just a matter of adding up all of the sales. It is not just a matter of adding up all of the costs.

Back to my example of the JC Penney Company, this is a matter of a judgment call being made. What is the judgment of the value of this company if it does not trust its executives enough with stock options?

Analysts on Wall Street who are trained and experienced came to one judgment call: that the Penney Company was not worth as much without stock options as it would be with them—nothing whatever to do with the bottom line, nothing whatever to do with how many socks we sold or how many shoes we sold or how many shirts we sold. It was a judgment call on the value of the company based on accounting decisions.

Are we going to account for compensation strictly on the basis of the Penney Company's system or are we going to make a judgment call based on stock options?

Well, the Penney Company did what it believed it had to do under those circumstances and, of course, went forward in its history.

The point here is that there are judgment calls to be made every day in every circumstance with respect to accounting, and they will determine how the public, the investing public, will respond to the company that makes them.

That raises the question of what should those calls be and who should determine what those calls should be.

There is a term we use. It is called GAAP. It stands for generally accepted accounting principles. The very phrase itself defines what it is we are talking about. If we want to make an accounting decision as to what something is worth, we should make the decision within the parameters of GAAP; that is, we should make the decision on the basis that is generally accepted.

Let me give an example of what happens when you go outside the basis of what is generally accepted accounting principles. I was involved with an investor and he put out appropriate balance sheets, accounting information, profit and loss statements, and so on. He got a very angry call from one of the subinvestors. This was the kind of man who would sell shares in his overall project primarily to doctors and dentists.

He said to me once:

> I will not sell shares to lawyers.

I said:

> Why not? Isn't a lawyer's money just as good as a doctor's or a dentist's money?

He said:

> No, because lawyers are trained to find problems and I don't want sub-investors who spend all of their time looking for problems.

Well, he got a phone call from a physician who said to him:

> I have looked at your financial information and you are lying to me.

He said:

> What do you mean I am lying to you?

He said:

> It is right here in your documents. You said this particular venture made X hundreds of thousands of dollars last year. Now you have given me your financial statements and I have found out you didn't make a penny.

The man said:

> What are you talking about?

He said:

> I have it right here. Here is a list of your assets and a list of your liabilities and they match each other to the exact cent. You didn't make any money.

Well, generally accepted accounting principles say that a balance sheet always has to balance, that the number on one side and the number on the other side must equal each other to the penny. This man did not understand generally accepted accounting procedures, he wanted to keep books a different kind of way, and he was misled. The solution, of course, was to educate him on what those generally accepted accounting procedures ought to be. Once he generally accepted what those procedures were, he could read the profit and loss statement, the balance sheet, and he could discover that the man, in fact, was not lying to him and that, in fact, the venture had made several hundreds of thousands of dollars that year.

Now, let's come to Wall Street, let's come to Enron, let's come to all of the things that we are talking about here. One of the things we have heard in many of the hearings that I have attended on this subject is that if you were a sophisticated analyst of financial statements, you could, in fact, find all of the information that you needed in the footnotes of the various financial statements that were published. You did not need the kinds of disclosure that this bill is calling for.

Well, I examined that, listened to that testimony, listened to the people who made that point, and came to the conclusion that they are right. If you are sophisticated enough to be able to go through every single footnote, examine every single side comment, and plow through all of the boilerplate that makes up a standard financial release, you could create an accurate picture of that corporation—except in those cases where there was outright fraud. In my opinion, Enron was a case of outright fraud, not a case of hiding things in footnotes; it was a case of lying.

Quite frankly, there is nothing we can do in this Chamber, or anywhere else in a legislative forum, to stop people who determine that they are going to lie, who are determined they are going to commit fraud. That will happen no matter what kind of a bill we pass. We can raise the penalty and thereby discourage it a little more—and there are proposals to do that—but we cannot stop it. If someone is determined he is going to break the law, and he thinks he can lie and get away with it, he will still do it regardless of the bills that we pass here.

But what we can do, what we should do, and what this bill is crafted to do is to make it easier for the ordinary investor to understand what a company is worth, make it so that the generally accepted accounting principles conform with generally understood activities with respect to the business world.

The question is, how can we establish accounting rules that will make it possible for the ordinary investor to understand what is going on and not restrict understanding to those who can read the footnotes, who can decipher all of the boilerplate. I don't think we will ever get there in a perfect world. Life being what it is, with the lawyers coming in and requiring careful terms of art to be spelled out, we will never get to the point where someone who does not have any kind of legal understanding of the terms of art can read this as easily as he or she could read Harry Potter. However, we can move in that direction, and I feel this bill does so move.

The one thing that we should be most careful of, however, is to avoid having Congress set the accounting rules. Why? If Congress sets the accounting rules, it will—to use a phrase we use here derisively sometimes—take an act of Congress to turn that around. And having set the rules, Congress is very reluctant to come back in an act of Congress and change them. But if the rules are set by the regulatory bodies over which Congress exerts some oversight responsibility, they can be changed much more easily as more information comes along and as people begin to discover that what they did previously maybe doesn't make as much sense.

I offer as exhibit A Congress's action to outlaw the deductibility of cash compensation above a million dollars—something that, in retrospect, now looks like it was a pretty stupid thing for us to have done. But we have done it, and the chances of trying to get a bill through that would undo it are very slim. If we stay out of the business—we in Congress—of making these kinds of accounting decisions, we will be better off, the economy will be better off, more people will keep their jobs, et cetera.

Let me close on that particular subject with that particular idea in mind, and that is that Congress from time to time wants to step into the marketplace, repeal the law of supply and demand, and assert our judgment over the judgment of the marketplace. I have said many times, and will say many times hence, if I could add to what we have carved in marble around here, I would say: ''You cannot repeal the law of supply and demand.'' But we keep trying to do it with wage and price controls. We keep trying to repeal the law of supply and demand.

We tried to do it in 1993 when we said we will do something about the excessive compensation of executives. We won't say that the marketplace and the law of supply and demand will determine what people get paid; we will legislate it. We will legislate it with tax policy. We will do some social engineering through tax policy. We keep trying to do that all the time, and it almost always produces a perverse effect.

Let me address this question of overwhelmingly big salaries and compensation—as if there was something really evil about that, really corrupting about that. Maybe there is, in terms of the impact that that sort of compensation has in the lives of an individual, but it is the marketplace at work.

Let me give an example with which I think everybody might be familiar. I am not talking about Jack Welch, the CEO of GE. I am not talking about Ken Lay at Enron. Let's talk about somebody with whom most people can identify. Let's talk about Wayne Gretzky.

Wayne Gretzky has been called, accurately in my view, the greatest hockey player who ever lived. Along with that, Wayne Gretzky is the highest paid hockey player who ever lived. At the time the decision was made by the hockey team that brought Wayne Gretzky into the United States and paid him an incredible sum of money, there was a great hue and cry: How can one individual be worth this much money? For what? Knocking a solid piece of whatever hockey pucks are made out of around on the ice, for that he is worth $20 million, $30 million, $50 million—whatever it was—a year?

The owner of the team came out of some obscurity long enough to say: Yes, he is worth that much money, and let me explain to you why. Then he outlined what the ticket sales for his team were the year before he hired Wayne Gretzky and what the ticket sales for his team were the year he announced the hiring of Wayne Gretzky. The number was several times the total amount that Wayne Gretzky was being paid.

The owner said: On a percentage basis, he is a bargain. He is a steal at the price I got him.

These numbers are representative rather than absolute, but they stick in my memory that they were paying Gretzky something like $40 million or $50 million and the increase in ticket sales was going to be something like $120 million to $150 million.

The owner said: If I had to, I would pay him twice as much because I am getting the benefit.

People say: But that is measurable. Michael Jordan did the same thing for the Washington Wizards. We can figure that out with accounting. But what these chief executive officers are being paid is obscene.

If you are a shareholder of General Electric, Mr. President, and you looked at what Jack Welch, the CEO of General Electric, did with that company during the time he had it in his stewardship, would you look back on that total period and say we paid Jack Welch too much money? Or would you look back on the amount of the value of General Electric that was generated under his stewardship and say he was a bargain; he was a steal; we could have paid him twice what we paid him and still come out well ahead?

You say: But look at all of the executives who flew their companies right into the sea. Look at the executives who destroyed their firms. Yet they got this same amount of money.

If I may go back again to the sports world, have we not seen sports teams pay very large salaries, responding to the law of supply and demand, for coaches who had losing seasons? For quarterbacks who ended up being on the waiver list? Those of us in the Washington, DC, area have had a lot of experience with quarterbacks. Does that mean we are going to stop trying to get the right quarterback for the Washington Redskins by saying we will pay them average salaries in the National Football League so that there will not be any more of these obscene salaries and failures?

Several things will happen if the Washington Redskins take that point of view. No. 1, they will start to lose even more than they have lost in the past. And, No. 2, the fans will stop coming and the savings that you will make in buying a quarterback that you can get for $400,000 or $500,000 a year, compared to the one that you are gambling $10 million or $20 million on will

all disappear as the ticket sales fall off, the television revenue disappears, and people do not want to come anymore.

Yes, there have been corporate executives who have been vastly overpaid. There have been CEOs who have been hired on the basis of their reputation, just as football coaches who have been hired on the basis of their reputation, who, to lure them into the company, have been given great packages and then failed to deliver. But there are also the Jack Welches of this world who have turned out to be bargains no matter how much they were paid.

Who should make the decision as to how much they should be paid? The answer is, The marketplace should do it. The law of supply and demand should do it. Someone who has demonstrated that he or she has the capacity to build, maintain, and expand a corporation with tremendous value for the shareholders is someone who can demand very high salaries because he or she is in very short supply.

We can complain all we want to about the social inequity of a CEO who is earning $20 million, $30 million, $40 million a year and someone who is working in that company for minimum wage, but it is the same principle as saying: Look at the difference between Wayne Gretzky down on the ice earning $20 million, $30 million, $40 million a year and someone selling hot dogs in the stands. If Wayne Gretzky were not on the ice, there would not be anybody in the stands to buy the hot dogs. Wayne Gretzky and his skills are in much shorter supply than someone who can stand in the stands and sell hot dogs.

We should not in our frenzy in this whole debate get so carried away with our desire to deal with those who have damaged the system by their failure to live up to their responsibilities that we, once again, make any statements that would cause us to try to repeal the law of supply and demand.

I see my colleagues are seeking recognition. I have carried on long enough. I leave with this one last thought: If we are going to deal with these issues, we should deal with them in the way this bill deals with them and not in the proposal that Congress itself should set accounting standards or should set wages or caps or compensation.

Past history tells us Congress can act in a hurry but repent at great leisure.

Mr. GRAMM. We have a unanimous consent request and a request for the yeas and nays that I want to make while we have at least a handful of Members here. I ask for the yeas and nays on the Edwards amendment.

The PRESIDING OFFICER. It is not in order to request the yeas and nays.

Mr. GRAMM. I ask unanimous consent that it be in order to request the yeas and nays on both pending amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is in order to seek the yeas and nays at this point.

Mr. GRAMM. I ask for the yeas and nays on the pending Edwards amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAMM. I now ask for the yeas and nays on the Carnahan amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAMM. The Democrat floor leader had a unanimous consent request he wants to propound.

Mr. REID. Mr. President, we are in the process of working that out now. I think we will be able to do that later.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business, with the time consumed counting against the postcloture debate.

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

The Senator from Nevada.

Mr. REID. Mr. President, it is also my understanding that the Senator from Nevada is going to yield an hour to the manager of the bill; is that right?

Mr. ENSIGN. If you require the 50 minutes that will be left against.

Mr. REID. Or whatever time is left.

Mr. ENSIGN. Yes.

Mr. REID. Mr. President, I understand he has a right to do that; is that true?

The PRESIDING OFFICER. The Senator has a right to yield time. The manager of the bill may receive up to 44 additional minutes. The Senator from Nevada.

Mr. ENSIGN. Mr. President, at the end of my remarks, I will yield whatever time the Senator from Texas can receive.

Mr. President, I want to talk about something a little different than what we have been talking about today, although I have very strong feelings about the bill and think that both the managers of the bill, along with Senator ENZI from Wyoming, have done a terrific job in addressing some very serious problems out there. I still believe there are a few problems with the bill we need to clean up in conference.

I do think the overall legislation has some positive reforms that must be implemented to try to restore some confidence back in the investing public.

PRESCRIPTION DRUGS

Mr. ENSIGN. Mr. President, what I want to talk about is something we are going to be dealing with later this week—as early as tomorrow from what I understand—and that is the whole idea of prescription drugs within Medicare. Earlier today, Senators HAGEL, GRAMM, LUGAR, INHOFE, and I all introduced a new prescription drug bill. It is the compilation of work mainly that Senator HAGEL and I have been doing for the last couple of years. We think it is a proposal that deserves the attention of our colleagues, and I encourage them to study this proposal.

I want to start by reading an e-mail I received from a senior citizen back in Nevada. This e-mail came in at 11:21 p.m. Pacific standard time, so obviously this person was up late at night thinking about the whole issue of prescription drugs. Let me read it:

I urge you to ponder very honestly the proposed prescription coverage with Medicare. Many social problems arise due to the fact that many persons who need medication to maintain some sort of life existence are not able to purchase the needed medications. Must we continue to choose housing or our medications? Please step back and consider if an elderly or disabled person in your own family were in this precarious situation. Would you not step up to the moral plate and fight to find funding for Medicare covered prescriptions?

I think this person summed up very well what a lot of seniors are feeling: They are having to choose sometimes between the type of food they eat and prescription drugs; sometimes between whether they can turn their air-conditioner on in the summertime or their heat on in the wintertime and prescription drugs; sometimes between rent and prescription drugs.

There are several proposals, and I commend the people who have been working on their proposals, but, frankly, the reason we decided to introduce this bill is that some of the other bills, especially when one looks into the outyears, are so costly that they literally could bankrupt the Medicare system in and of itself.

Our bill does a few things. First, it is available to every beneficiary, and it is also available faster than any of the other prescription drug proposals. Our bill can be implemented as early as January 1, 2004, whereas the earliest the other proposals can be implemented is 1 full year later.

Our bill is also the most affordable bill, especially to the taxpayer. We are waiting for the final score from CBO, but we think it is going to come in somewhere around $150 billion over the next 10 years. The next cheapest proposal, that we are aware of, is around $370 billion, and when one looks at the full cost of a 10-year program, other programs can be up to a trillion dollars.

A trillion dollars is not something this country can afford, especially under current economic conditions, and especially when we think about young people who would like to see Medicare as a benefit to them someday.

So we must enact a reform that not only America can afford but also senior citizens can afford, and we think we

have come up with that balance. Basically, the way the program would work is, every senior on a voluntary basis would be able to get a prescription drug discount card. For a $25 annual fee, they would sign up and get this prescription drug discount card. They would then go buy their prescription drugs, and all seniors would save because of volume discount buying. We would use the private sector to do this. They would save, on average, 25 to 40 percent on their drugs. That is a huge savings right upfront that every senior could achieve.

On top of that savings, seniors up to 200 percent of poverty would next spend, on average, about $100 a month out-of-pocket; then after that, other than a very small copay, the Federal Government would cover the rest of their prescription drug costs.

This is what seniors are looking for. In my campaign in the year 2000, I took this plan all over the State of Nevada and talked to low-income, moderate-income, and higher income seniors groups about it. I told them that people who are in the lower income bracket are going to get most of the benefit, and for people in the higher income bracket, it is going to cost them more money, as it should.

In some of the other programs, no matter whether one is a lower income or higher income senior, they basically are treated the same. I personally do not think Ross Perot or somebody in his income category should be treated the same as somebody who makes $15,000 a year. There should be some difference. Under our bill, there is a great difference in the way those two categories of people would be treated.

The reason our bill is less costly to the taxpayer is one simple fact: All the other bills give a percentage of first dollar coverage. Whether it is 50 percent or whatever the coverage, after a very small deductible, they all start covering right away. Our bill says the senior is going to pay about the first $100 a month out of pocket, and then after that, our coverage kicks in.

About 50 percent of the seniors do not have $1,200 worth of prescription drug costs per year, so about half the seniors, other than the discounts they will get because of the prescription drug discount card, actually will not use it. But, frankly, most seniors can afford about $100 a month for prescription drugs. It is for that diabetic patient or that heart patient or that cancer patient who has maybe about $500, or $300, or $400, or whatever it is, a month that they are paying in current prescription drug costs. These are the people that really cannot afford their prescription drugs, and our bill helps that person much more than most of the other plans.

The reason our bill saves so much money is that we keep the patient accountable for the drugs they are getting. They do not have somebody else paying for it and as they get the benefit. That is one of the biggest problems we have with our current health care system: There is no accountability with patients. They are receiving the benefit regardless of the cost, and so they do not think about shopping because somebody else is paying the bill.

We do not have market forces working in the health care field today, and if we enact a prescription drug benefit without utilizing market forces, someday we are really going to regret it because we will have severely out of control costs.

The bill we have introduced, we believe, is more fiscally responsible and targets most of the benefit for those who truly need it the most. We can enact it a lot more quickly than some of the other programs, and it is permanent. It is because of those factors that we believe this bill is the bill that our colleagues should take a look at supporting.

We would be happy to meet with anybody to talk to them about the bill and possibly about cosponsoring the bill. Do not be turned off because one political party may be offering one bill and the other party offering another bill. We are offering an alternative to either of those bills, and we think this bill, with its fiscal responsibility to the taxpayer, is the bill that people should support.

In closing, I look forward to engaging in a meaningful debate on prescription drugs after we deal with this accounting reform issue—and this issue is so important, and I see my friend from Wyoming who has done so much work on the bill, and I applaud him and the others who have worked on this bill. But later in the week as we are debating this prescription drug benefit proposal, we need to take a serious look and not play politics because seniors cannot afford for us to play politics with the prescription drug issue. We need to work together in a bipartisan, rather, in a nonpartisan fashion, so seniors can get the help they so deserve.

I ask unanimous consent that under the provisions of rule XXII, I may yield whatever time I can yield back to Senator GRAMM. I understand it is 44 minutes, and I yield that amount of time to Senator GRAMM.

The PRESIDING OFFICER (MS. CANTWELL). The Senator has that right.

The Senator from Georgia.

Mr. KENNEDY. Will the Senator yield?

Mr. CLELAND. I am happy to yield.

Mr. KENNEDY. We have had two speakers from the other side. I ask unanimous consent to follow the Senator from Georgia.

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

The Senator from Wyoming.

Mr. ENZI. Reserving the right to object, and I will not object, some of us have been on the floor all this time waiting to speak, as well. We hope for a chance to speak before we reach the end of the day.

I will not object.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CLELAND. Madam President, I ask recognition to discuss my amendment No. 4236. This amendment addresses the accountability of corporate officers and directors. I strongly support the legislation before us which addresses the critical need to create an environment of accountability within corporate America. We need to send a strong message to corporate executives that the days of living large while lying, cheating, and stealing from the American people are over. Control of a company certainly has its advantages, but it also carries important obligations and duties. My amendment would address a situation like Enron where officers cashed in on bonuses, severance packages and millions of dollars in stock sales as they saw the light of the train coming through the tunnel. Unfortunately for thousands of Enron employees and investors, they had no similar warning and were not able to bail themselves out before many lost not just their jobs, but their life savings as well. My amendment would make sure that officers and directors who know what is happening, who know that financial reports are being manipulated, can't cash in on this knowledge while leaving employees and investors holding the bag. It is the duty of officers and directors to know what is happening in the corporation and to blow the whistle when they know there is wrongdoing.

In the case of Enron, 10 executives or directors joined CEO Ken Lay and Chief Financial Officer Andrew Fastow in siphoning off company proceeds and reaping millions of dollars when they sold their Enron shares high. Together these 12 individuals made stock profits totaling more than $30 million before the company took a public nose dive at the end of last year. These corporate high rollers were reaping huge profits at the same time thousands of hard working Americans were losing more than a billion dollars in retirement savings, including $127 million in lost retirement savings in my home State alone by teachers and State employees.

Corporate greed, should not be rewarded. The underlying bill requires that when a corporation has to file a restated financial report because of misconduct in the original report, the CEO and CFO have to give back any profits they have made from bonuses and stock sales for a year after the original report. My amendment would expand on the bill by calling into account all officers and directors who know about the misconduct in filing the financial report and through that knowledge abuse the company's trust and the trust of their employees. It would also mandate that officers and directors who have knowledge of wrongdoing in their financial reports would not only have to give up bonuses and profits but also their severance packages. Why should someone like

Jeff Skilling get a parachute as he bails out of a disaster he helped to create?

This amendment, my amendment, deserves support. It is endorsed by Arthur Levitt, one of this nation's most distinguished financial authorities. It is high time we call corporate executives on the carpet and hold them accountable. It is time we create an atmosphere that encourages responsible behavior and restores the confidence of the American people in the economy of this country.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is to be recognized.

Mr. KENNEDY. I am happy to yield.

Mr. REID. I will take a couple of minutes.

Mr. KENNEDY. I guess I just yielded the floor.

I yield to the Senator and ask recognition afterwards.

Mr. REID. We have had some very long speeches by those on the other side and I thought it appropriate we respond.

The ranking member of the Finance Committee had all these charts indicating that all the problems were not the problems of this administration. The fact is, we realize there is a lot of blame to go around. With do not try to whitewash this issue.

The fact is, the President of the United States appointed the SEC Commissioner, who stated in the hearings he wanted a friendlier, a more gentle Securities and Exchange Commission.

That statement speaks for itself.

We also have to understand that actions speak louder than words. What I mean is, we have a Federal Government today, this administration, that is basically run like corporate America. That has to change. That is what this legislation is all about.

When there is a situation where the President of the United States is being written up in editorials all over the country and news articles throughout the country over his dealings with stock, borrowing money that basically he did not have, to pay back the principle until you sell your stock—no one else gets deals like that. The commentators are looking at that, as they should. Of course, the dealings that the Vice President had with Halliburton, we would like to know more about that. But the Vice President is treating that like he treated his energy task force: in complete secrecy, contrary to how we should be running this Government.

I believe we have a situation that cries out for passing this legislation as quickly as possible. This administration must step forward and recognize they are part of the problem, until they start talking about supporting this legislation, as I understand the President did today. I think that is wonderful. I understand he is going to help us get this through conference. I think that is important. I would like to see it before the August recess. It is important this legislation move forward.

Actions speak louder than words. This administration has to do more than talk about what needs to be done. They have to work with us in solving the problems of corporate America today.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, there are many important provisions in the legislation before the Senate to increase corporate accountability. I had hoped to offer an amendment to make workers' retirement plans whole again when the corporate executives cheat.

After the collapse of Enron—the largest bankruptcy in U.S. history—the President and many Republicans in Congress suggested that it was an isolated example of corporate wrongdoing. Since that time, the nation has witnessed a continuing series of corporate scandals which have demonstrated otherwise.

The lack of corporate responsibility in the United States has undermined the credibility of our markets and devastated the retirement savings of millions of Americans. This widespread abuse of corporate power has also jeopardized our nation's economic recovery and hurt the legitimacy of our fundamental institutions. We must take bold action this week to ensure that corporations are made accountable and that workers and investors are protected against these abuses.

In the past month, we have seen a jury criminally convict the Arthur Andersen accounting firm for engaging in the obstruction of justice to cover up the Enron debacle. We have seen WorldCom admit that it wrongly reported its true financial condition by nearly $4 billion. Just last week, the Wall Street Journal reported that Merck recorded $12.4 billion in revenue from a subsidiary that it never actually collected.

In response to these scandals the President gave a speech last week, which the White House likened to the words of former President Teddy Roosevelt. Unlike our nation's great trustbuster, the President failed to lay out a comprehensive plan to restore America's confidence in our economic system.

Hard-working Americans and their families have suffered immensely as a result of these scandals and the failure of the Administration to take decisive action. Workers have lost their jobs, their health benefits, and their retirement savings. Today, over 47 million workers rely on 401(k) plans and the stock market for retirement security. We can't wait for the next report of corporate fraud, the next round of layoffs, and retirement losses before we take serious action.

This wave of corporate scandals is undermining the confidence of investors in the U.S. economy. Mutual fund investors have lost about $700 billion in just the last 15 months. In May of this year, new investments in stock funds declined by nearly two-thirds from the previous month. As foreign investors lose confidence in the transparency of U.S. corporations, these investors are pulling out of the U.S. market and the value of the dollar is now falling against foreign currency. With an unemployment rate of 5.9 percent, America's workers can ill afford to have their economic prospects dimmed by corporate corruption.

Its time—in fact its long past time—to pass tough new laws to prevent future abuses of corporate power. We must reform our accounting system, enact criminal penalties for corporate wrongdoers, and pass new protections for workers.

Senator SARBANES' accounting bill is critical to reforming our public accounting system and ensuring transparency and accountability for corporations in the United States. The legislation creates an independent oversight board; it restricts the non-audit services than an accounting firm can provide to the public companies that it audits; it holds corporate executives responsible for the accuracy of corporate financial statements; it requires corporate insiders to report stock sales and corporate loans to the SEC; and it provides additional resources to the SEC to improve its investigation and enforcement capabilities. We all owe a debt of gratitude to our colleague, Senator PAUL SARBANES, for shepherding this legislation through the Banking Committee and bringing it before the Senate.

In addition to these accounting reforms, we must hold corporate executives accountable when they mislead workers and undermine their retirement security. At Enron, executives cashed out more than a billion dollars of stock while Enron workers lost nearly a billion dollars from their 401(k) retirement plans. Thousands of Enron workers lost virtually all of their retirement savings. Enron executives got rich off stock options even as they drove the company into the ground and systematically misled workers about the true financial state of the company. Ken Lay now has a pension of nearly half a million dollars a year for life. Many Enron workers have nothing at all.

These are all statements that were made by Mr. Lay. Ken Lay's lies encouraged workers to buy Enron stock at $49. He ''never felt better about the prospects of the company.'' He predicted to employees a ''significantly higher stock price,'' saying it was ''an incredible bargain'' as it was going down. Mr. Lay has a pension of nearly half a million dollars a year. At WorldCom, the workers lost more than half of their retirement savings as the stock dropped from $60 to just 6 cents. Workers across the country also lost big as a result corporate wrongdoing at WorldCom. The brave firefighters and police officers of New York City lost $100 million from their pension fund.

Over 20,000 workers have been laid off in the last few weeks because of the actions of WorldCom executives. Yet, those same executives made out like bandits. Former WorldCom CEO Bernie Ebbers is guaranteed a million and a half dollars for the rest of his life while WorldCom workers face a bleak financial future.

Sadly, Enron and WorldCom are not just isolated tales of corporate greed that hurt America's workers. At Kmart, 22,000 workers were laid off. At Lucent, 16,000 workers were laid off. At Xerox, over 13,000 workers were laid off. At Tyco, almost 10,000 workers were laid off. At Global Crossing, over 9,000 workers were laid off.

These corporate debacles reveal a much deeper crisis of corporate values. In America, people who work hard all their lives deserve retirement security in their golden years. It is wrong—dead wrong—to expect Americans to face poverty in retirement after decades of working and saving.

For far too long, corporate executives have been obsessed with their own compensation instead of the long-term health of the companies they lead. Executives, like those at Enron and Wordcom, should not put their own short-term gain ahead of the long-term interests of workers and shareholders. They must not be rewarded for doing so. At Enron, workers were systematically misled by Enron executives about the financial situation of the company. For years, Enron, like many other companies, pushed its workers to buy company stock with their own 401(k) contributions.

Until the bitter end, Enron executives continued to promote Enron stock to workers in a series of e-mails. On August 14, Enron CEO Kenneth Lay told workers that he ''never felt better about the prospects for the company.'' On August 27, Lay predicted to workers a ''significantly higher stock price.'' And on September 26, Lay called Enron stock ''an incredible bargain.'' Even as they promised the moon, Lay and other executives were cashing out their stock for a billion dollars.

If Enron and WorldCom scandals teach us anything, it's that we must stop rewarding corporate misbehavior.

Our amendment—it is cosponsored by Senator Gregg of New Hampshire—makes it clear that executives who give workers misleading information about the company stock in their 401(k) plans face serious penalties. The amendment is the civil law parallel to the Leahy criminal provisions, which punish executives for defrauding investors. The amendment is also the ERISA civil law parallel to the Biden amendment, which increases the ERISA criminal penalties. When executives lie and mislead workers about company stock, they must face real penalties.

Under current pension law, Enron executives, like Ken Lay, and Arthur Anderson, cannot be held responsible for workers' losses in their 401(k) plan. The amendment makes a corporate ''insider''—an officer or director or the independent public accountant—responsible under pension law if the insider misleads workers about the company's stock.

America's workers need this amendment to hold Ken Lay and other executives engaged in wrongdoing accountable. The amendment empowers workers to seek restitution when executives knowingly abuse workers' pensions. If workers lose their retirement savings due to deliberate corporate mismanagement, then they should have the right under our laws to hold those top executives accountable in a court of law, and recover what they lost. This right could make the difference for a family between an impoverished retirement and a comfortable retirement that they earned.

The economic health of our nation depends on reigning in the abuses of corporate power which we have witnessed in recent months. Restoring the credibility of accounting standards, as the Sarbanes bill would do, is critical to restoring confidence in our markets. At the same time, we must also restore basic fairness to our system.

When corporations like Enron fail because of executive wrongdoing, corporate executives get golden parachutes but workers are left with a tin cup when it comes to their retirement. Corporate criminals must be made to pay for their misdeeds.

We see from this chart what has happened: Ken Lay, $457,000 a year for life, retirement savings were decimated, 4,200 layoffs; former WorldCom CEO, Bernard Ebbers, $1.5 million a year, retirement savings decimated, 20,000 layoffs; Richard McGinn, $12.5 million lump sum pay for Lucent, retirement savings decimated, layoffs for 16,000; Charles Conway, $9 million lump sum pension, retirement savings decimated 22,000 layoffs.

This has to stop. Today we have a critical opportunity to protect workers and investors against future abuses of corporate power. We must not let these hard-working Americans down.

Madam President, I ask unanimous consent to temporarily lay aside the pending amendment in order that I may offer the Kennedy-Gregg amendment, which I send to the desk at this time.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Massachusetts retains the floor.

Mr. KENNEDY. Madam President, I have heard objection. We tried to get this amendment up during the period of the last week and were closed out. It is a simple amendment. It is an amendment that can do more to protect workers' interests than many other proposals. I think we ought to have some accountability for those who willingly mislead, willingly and knowingly mislead workers, and then benefit from insider information.

It would just give them a cause of action, a specific case, no punitive damages. It would be a factual situation which would have to be decided in the courts of law. But it does seem to me to offer a real meaningful opportunity to protect workers and the savings of workers from the kind of gross abuse we have seen currently here in the Senate.

Mr. DORGAN. Madam President, will the Senator yield for a brief question?

Mr. KENNEDY. I am glad to yield for a question.

Mr. DORGAN. Madam President, the Senator from Massachusetts has just propounded a unanimous consent request on an amendment that makes good sense to me, and it certainly should be added to this bill. I assume it is a germane amendment. We are postcloture. At the very least, he should have gotten a vote on the amendment. But I wonder if the Senator from Massachusetts knows that this has gone on all afternoon. I offered an amendment a couple of hours ago that was simple and germane. It should have had a vote. It said that if the CEOs and directors of a corporation waltz out the door with millions of dollars of bonuses, stock options, and incentive pay, and then the company goes bankrupt, they have to give it back. I couldn't get that amendment up for a vote because of the same objection.

I wonder if the Senator from Massachusetts might conclude from this that the things here in the final hour which are germane have a right to be considered and heard on behalf of the workers and the shareholders and the folks who didn't get rich but the folks who lost everything. I wonder if there is not a pattern here that the Senator from Massachusetts sees and that others see to shut down those amendments and protect the folks at the top while the folks at the bottom lost everything.

Mr. KENNEDY. Madam President, this amendment is relevant. But under the strict rules of the Senate, it would not be considered germane, although I think a commonsense evaluation or review of the amendment's purpose and what the underlying bill is about would certainly appear to I think most people to be an important strengthening provision if we are interested in corporate responsibility and protection for workers. It is certainly relevant, but under the technical rules it is not germane.

But I think anyone who knows what this bill is really all about understands what is happening in these circumstances. This would certainly be a very strengthening provision in the underlying provisions. We were unable to get the opportunity to have the consideration because we were foreclosed from that opportunity at the end of last week and we are getting objections this week.

I think that is unfortunate. As I understand it, the most current support for this is overwhelmingly among Republicans and Democrats alike across

this country. They understand. It doesn't take a lot of debate or discussion to understand what accountability is all about. Under the existing laws, they can only have accountability, not for those who are at the CEO level, who are really the ones making these judgments and decisions upon which workers are relying, but they would only be able to sue lesser figures in the corporate ladder. Therefore, this is not an effective remedy for workers.

We are trying to provide an effective remedy for workers who are being shortchanged. It makes eminently good sense. It is eminently fair. It is eminently responsible. It is eminently relevant. But there has been objection to it.

I want to give assurance to the Senator that we look forward to offering this amendment at another time at the first opportunity.

Mr. REID. Madam President, I ask unanimous consent that Senator BYRD be recognized today at 5 until 15 after the hour to speak.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

INSIDER TRADING

Mr. GRAMM. S. 2673 includes provisions prohibiting insider trading of company stock during so-called blackouts—or periods during which pension plan participants are unable to exercise control over the assets in their accounts. In order to implement the insider trading prohibition, it was necessary to provide a definition of a blackout period. The Banking Committee also provided a 30-day notice requirement prior to a blackout, so workers and executives alike would know when the insider trading prohibition would be effective.

Mr. GRASSLEY. Mr. President, there appears to be broad consensus that pension plan administrators should be required to provide 30 days' notice to affected plan participants before limiting their ability to exercise the rights provided through their pension plans. These advance blackout notices will become integral requirements for how pension plans will operate in the future. Because of this, notice requirements were included both in the pension bill reported by the Health, Education, Labor, and Pensions, HELP, Committee on March 21, and in the bill reported by the Finance Committee unanimously on July 11.

Mr. GREGG. I agree with the Senator from Iowa. Although the general concepts are agreed upon, however, there are differences between these provisions in all three bills that affect the operations of pension plans, and will clearly need to be worked out before the bill is sent to the President's desk. Harmonizing these requirements will require a careful balance between the rights of pension participants and the financial burdens on plan administrators.

Mr. KENNEDY. I certainly agree with the remarks of my colleagues. My bill provides pension plan participants with written notice 30 days before a plan blackout begins, and prohibits blackouts from continuing for an unreasonable time. This important disclosure to pension plan participants is within the jurisdiction of the HELP Committee.

Mr. BAUCUS. I also agree with the remarks of my colleagues. As chairman of the Finance Committee, which also has jurisdiction over pension plans, I join the chairman of the HELP Committee and the ranking members of both the Finance and HELP Committees in urging the chairman and ranking member of the Banking Committee to work with us as you go to conference on S. 2673, to ensure that the blackout provisions are drafted in such a way as to ensure the proper operation of the pension system.

Mr. SARBANES. I look forward to consulting with both the Finance Committee and the Health, Education, Labor, and Pensions Committee as we go to conference to make sure the provisions are appropriately drafted.

CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS

Mr. GRAHAM. Section 302 of S. 2673 involves Corporate Responsibility for Financial Reports. I am concerned that in subsection (b), where the CEO and CFO sign documents to verify the accuracy of financial reports, the bill's language says they shall ''certify'' the accuracy of the financial documents. In my view, this language should read ''certify under oath'' in order to be consistent with current Securities and Exchange Commission, SEC, regulations. You can clearly see that the SEC currently requires that these statements to be under oath. Let's not create a lower standard in this bill than currently exists in regulation.

Mr. SARBANES. I appreciate the Senator's interest, and I hope his concerns can be addressed in conference.

Mr. GRAHAM. I thank the Senator for his assistance on this issue and his leadership on this legislation.

I ask unanimous consent that Exhibit A of the order be printed in the RECORD.

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

[From SEC website www.sec.gov, June 27, 2002, OMB Number: 3235–0569; Expires: January 31, 2003]

Exhibit A—Statement Under Oath of Principal Executive Officer and Principal Financial Officer Regarding Facts and Circumstances Relating to Exchange Act Filings

I, [Name of principal executive officer or principal financial officer], state and attest that:

(1) To the best of my knowledge, based upon a review of the covered reports of [company name], and, except as corrected or supplemented in a subsequent covered report: no covered report contained an untrue statement of a material fact as of the end of the period covered by such report (or in the case of a report on Form 8–K or definitive proxy materials, as of the date on which it was filed); and no covered report omitted to state a material fact necessary to make the statements in the covered report, in light of the circumstances under which they were made, not misleading as of the end of the period covered by such report (or in the case of a report on Form 8–K or definitive proxy materials, as of the date on which it was filed).

(2) I [have/have not] reviewed the contents of this statement with [the Company's audit committee] [in the absence of an audit committee, the independent members of the Company's board of directors].

(3) In this statement under oath, each of the following, if filed on or before the date of this statement, is a ''covered report'':

[identify most recent Annual Report on Form 10–K filed with the Commission] of [company name];

all reports on Form 10–Q, all reports on Form 8–K and all definitive proxy materials of [company name] filed with the Commission subsequent to the filing of the Form 10–K identified above; and

any amendments to any of the foregoing.

GUIDANCE TO STATE REGULATORY AUTHORITIES

Mr. ENSIGN. Mr. President, the purpose of this amendment is to ensure that State regulators do not automatically apply the provisions of this bill to accounting firms, particularly small accounting firms and firms that service small businesses without first looking at the possible harmful unintended consequences to those small businesses. The standards applied by the board under this act could create undue burdens and cost if applied to nonpublic accounting companies and other accounting firms that provide services to small business clients.

Mr. GRAMM. I agree with my friend, the Senator from Nevada, and want to add that what we need to avoid is a possible cascading effect, starting with the Federal Government, that could eventually hurt the small accounting businesses in this country.

Mr. ENSIGN. Many of these small businesses rely on their CPA or auditor to provide objective, trusted advice and counsel on a broad range of tax and business related issues. Without this amendment, we will end up harming thousands of American accounting firms and their small business clients.

Mr. GRAMM. Mr. President, I think the Senator from Nevada is right about the harmful affects this legislation could have on small businesses, not only the small accounting firms in this country, but also the small business clients of those companies. This

amendment says to the State regulators to look very carefully at the effects this legislation could have for smaller and medium-sized firms, and also on small businesses that may rely on larger firms for their audit work.

Mr. ENSIGN. I thank the Senator from Texas for his comments.

Mr. KOHL. Mr. President, as a businessman, I have been deeply concerned about the reports of fraudulent and even criminal behavior at prominent American corporations. When I worked in business on a daily basis, this is not the kind of behavior I saw or expected from my peers. It is imperative that we respond to the corporate malfeasance which has been roiling our markets. The impact of these acts, all for the sake of boosting short-term profits, has been broad, costing many their jobs and others their savings.

The free market is the underpinning of our economic system, the key to the growth and development of our Nation in the last two centuries. The many creative and dynamic businesses which make up our democratic capitalism make important contributions in the form of good paying jobs and the taxes which pay for critical services, such as our national defense. Above all, these businesses are good citizens in their communities. As a result, businessmen are important and highly valued people in our society. The vast majority of businessmen act in good faith and with integrity. It is the bad apples who give the rest a bad name.

Our system has been abused. Unfortunately, those who have raped the system have reaped financial gain, while the rest have lost jobs, savings and pensions. They and their boards violated the public trust.

Those who are lucky enough to be in positions of leadership have an enormous responsibility to enhance and not damage our economy. Unfortunately, the current system of regulation has not been sufficient to prevent bad actors from abusing their positions. That is why we are taking action today. We must build more accountability into our economy because the bad actors—even if they are not in great numbers—have impacted our whole economy. The stock market is no longer the playground of the rich: We are now in an era when as many as 50 percent of the American people have some of their assets in the stock market, meaning enormous repercussions if companies are misrepresenting their financial positions.

I agree with the President that ethical behavior and corporate responsibility are essential if we are to restore the confidence of the American people in our free markets. However, the colossal corporate wrongdoing we have seen uncovered—in 2001 alone, 270 public companies had to restate the numbers in their financial statements—requires that we step up to the plate and address some of the structural problems which have allowed these frauds to occur.

That is why I support S. 2673, the Public Accounting and Corporate Reform Investor Protection Act of 2002.

There are those who have said this legislation is too strong. I disagree. This legislation will not have a negative impact on people doing their jobs as they should. We have an obligation to protect investors, employees, citizens. We are saying to CEOs, their fellow executives, and their boards: We expect you to do your jobs correctly, with integrity, and if you don't, you will be held accountable.

It is not enough to challenge corporate America to do better. We must make clear that there is a cost to engaging in accounting and securities fraud. That is why I supported the Leahy amendment, a version of the Corporate and Criminal Fraud Accountability Act. This amendment strengthens existing criminal penalties for corporate crime, creates a securities fraud felony punishable by up to 10 years in prison, and creates a new crime for schemes to defraud shareholders. The amendment also would establish a new felony antishredding provision and would protect corporate whistleblowers.

The strength of the Sarbanes bill is not in the penalties alone. The bill addresses conflicts of interest which have permitted these crimes to occur and is a balanced approach which will help prevent corporate fraud from occurring in the first place.

The bill sets up a strong, independent, and full-time oversight board with broad authorities to regulate auditors of public companies, set auditing standards, and investigate violations of accounting practices. The Public Accounting Oversight Board proposed in the bill is a better alternative to the part-time board currently being pushed by the SEC. That board would leave standard setting to the accounting profession and would most likely perpetuate the status quo. It is the lack of clear standards coming from the current system of self-regulation which has been the root of many of the frauds being revealed today.

The Sarbanes bill also restricts the nonaudit services a public accounting firm may provide to its clients that are public companies. These consulting services are clear conflicts of interest for independent auditors. We cannot rely on auditors to serve as the watchdogs of publicly traded companies if they are deeply invested in these same companies. If we cannot rely on the auditors, than how are we to rely on the markets?

Finally, the Sarbanes bill addresses the problem of stock analyst conflicts of interest. The Merrill Lynch case recently settled in New York is an egregious example of stock analysts pushing stocks that they actually thought had little value. Most often the motive for pushing stocks of questionable value is to boost their own investment banking departments which are underwriting these stocks. The bill before us today addresses this problem and requires the SEC to adopt rules designed to protect the independence and integrity of securities analysts.

I have no illusions that one bill will be the panacea for all that currently ails corporate America. For example, I believe there is more we should do, beyond the corporate disclosures in this bill, to address problems with corporate boards. We have a responsibility, however, to restore confidence in our markets and in the solid businesses which make up these markets so that our economy can thrive. Only decisive action can prevent this fraud on the American people from happening again.

Mrs. MURRAY. Mr. President, over the past year as Americans have worked hard to restart our economy, we have been hit by report after report of irregularities, misconduct, and blatant conflicts of interest by corporate executives, auditors, and brokerage firms.

The current corporate and auditing scandals are hurting American families. Thousands of jobs and retirement accounts have disappeared. Millions of current investors have watched their gains evaporate. Our economic recovery looks more distant. And most importantly for our long-term prosperity, investors are no longer confident that the financial information provided by public companies and their auditors is accurate.

Congress cannot restore the jobs and retirement savings caused by this wave of corporate and auditing scandals. It can act to strengthen oversight of the accounting industry, to demand greater responsibility from corporate executives, and to address conflicts of interest in brokerage firms.

Today I am voting for reform. We need to send a strong message to working and retired Americans, to investors, and to the executives and auditors of publicly held companies that this Senate will act to restore accountability and faith in our free market system. The Senate's bipartisan accounting reform bill will do just that.

First, the bill limits its scope to publicly held companies. The bill does not attempt to federalize accounting oversight. Instead, it strengthens the Federal Government's historic role of regulating publicly traded companies and their auditors. The State boards of accountancy will continue their important role of regulating accountants who audit private companies.

Second, the legislation establishes a strong, independent Public Company Accounting Oversight Board. The board is empowered to set auditing, quality control, and ethics standards, to inspect registered accounting firms, to conduct investigations, and to take disciplinary actions. As a check on the board's power, its decisions are subject to oversight and review by the Securities and Exchange Commission, SEC.

Third, this bill seeks to ensure that auditors are fulfilling their public duties by ending potential conflicts of interest. Large accounting firms typically provide both audit and nonaudit services to their public company clients. The legislation would prohibit auditors from performing specific nonauditing services, unless those services are approved on a case-by-case basis by the Public Company Accounting Oversight Board. All legal nonaudit services would need to be approved by a public company's audit committee.

Fourth, the Senate legislation demands that corporate leaders take greater responsibility. The bill requires that chief executive officers, CEOs, and chief financial officers, CFOs, certify financial reports, outlaws fraud and deception by managers in the auditing process, prevents CEOs and CFOs from benefitting from misstatements made in their financial reports, and prohibits corporate decisionmakers from selling company stock at a time when their employees are prohibited from doing so.

Fifth, the Senate bill would limit the growing pressure and conflicts of interest that affect the independence of stock analysts. Just as investors need to know that a company's financial reports are accurate, so should investors expect objective opinions from stock analysts.

Finally, the bill would authorize additional funding for the SEC and would establish independent sources of funding for the new oversight board and FASB. As a member of the Senate Appropriations Committee, I will support full funding for the SEC.

We need to work to prevent future scandals. We also need stronger criminal laws and penalties to address fraud and abuse by corporate executives and auditors. During last week's debate I voted for three amendments, including an amendment by Senator LEAHY, that would close gaps in current law.

I know some of my constituents in the accounting and business communities are concerned by a few of the steps in the Senate bill. As I talk to certified public accountants in my State, they have emphasized that it is critical to encourage greater competition in the public accounting field. I agree investors would be better served by more competition. The bill requires the Comptroller General, in consultation with various agencies and organizations, to identify the factors that have led to the consolidation of public accounting firms since 1989, the impact of consolidation, and ways to address it. While a study does not guarantee action, I look forward to reviewing its findings.

It is time to restore confidence in corporate financial statements. It is time to hold people accountable who violate the public trust. I urge my colleagues to join me in supporting this legislation.

Mrs. BOXER. Individual investors, saving for their retirement or their children's education, count on business leaders to play by the rules. They also count on financial industry professionals including accountants and research analysis to produce reliable, professional, and honest work.

But recent business scandals at Enron, Tyco, Merrill Lynch, WorldCom and others are proving that without strong government oversight and regulation, greed will lead executives, accountants, and investment analysts to abuse the trust that American workers and investors have placed in them.

We have to restore that trust. This bill is a good first step. It has the necessary teeth to clamp down on corporate irresponsibility. First, it creates a full-time independent board to set ethical auditing standards. Second, it prevents companies from providing most consulting services for the very same companies that they audit. Third, if enforced, it would send corporate executives who mislead shareholders to jail. Fourth, it forces Wall Street investment research analysts to disclose any conflicts of interest that they or their financial institution might have in the investment recommendations that they make. And finally, it protects whistleblowers who reveal unethical acts by the companies for which they work.

I support this bill and would have supported even stronger legislation. I remain concerned that the public members on the board created in this bill are not chosen according to specific independence standards. I am also concerned that disclosure requirements do not include the holdings of family members of influential research analysts on Wall Street. And most importantly I had hoped we could do more to get funds to workers who lose their jobs as a result of executive misconduct. Those concerns aside, this bill is a good first step in restoring confidence in the system.

Unfortunately, the House recently passed a bill that is weak and will not get the job done. It fails to establish a full-time board to design and enforce auditing standards, does not mandate jail time for securities fraud, and fails to protect whistleblowers. On the conflicts of interests that investment analysts are forced to disclose in the Senate bill, the House bill calls only for a study of the issue.

I urge the President to go beyond rhetoric and endorse the Senate accounting reform bill so that we can get a strong bill out of conference. I also urge the President to join us in fighting for meaningful pension reform to ensure that American's retirement savings are protected.

Mr. SMITH of Oregon. Mr. President, I rise today to take a few moments to praise the Banking Committee for bringing the Public Company Accounting Reform and Investor Protection Act of 2002 to the floor and all the hard work they have done in the past week. In the weeks before this bill came to the floor I thought that what we needed was some type of Investors' Bill of Rights.

I had worked with colleagues on both sides of the aisle to come up with bipartisan goals to prevent corporate abuse and protect investors. I feel that much of the bill on the floor fulfills these goals. I feel that there are a few things that investors should see happen when we pass this bill. I believe that much of this bill will help, and in other areas we may have to work further.

I believe that investors must have access to information about a company. We should ensure that every investor has access to clear and understandable information needed to judge a firm's financial performance, condition and risks. The SEC will have the power to make sure companies provide investors a true and fair picture of themselves. A company should disclose information in its control that a reasonable investor would find necessary to assess the company's value, without compromising competitive assets.

I believe that investors should be able to trust the auditors. Investors rely on strong, fair and transparent auditory procedures and the concept of the Oversight Board in the Sarbanes bill is a sound one.

I believe investors should be able to trust corporate CEOs. Unlike shareholders or even directors, corporate officers work full-time to promote and protect the well-being of the firm. A CEO bears responsibility for informing the firm's shareholders of its financial health. I support the concept of withholding CEO bonuses and other incentive-based forms of compensation in cases of illegal and unethical accounting. Further, I do believe that CEOs must vouch for the veracity of public disclosures including financial statements.

I believe that investors should be able to trust stock analysts. Investors should be able to trust that recommendations made by analysts are not biased by promises of profit dependent on ratings. It is only common sense that there should be rules of conduct for stock analysts and that there must be disclosure requirements that might illuminate conflicts of interest.

Finally, I believe that we should be able to rely on the Securities and Exchange Commission to protect investors and maintain the integrity of the securities market. Current funding is inadequate and should be increased to allow for greater oversight, ensuring investors' trust in good government.

During the debate on this bill my attention has been called to the plight of public pension systems, such as Oregon's Public Employment Retirement System, known by the acronym PERS. PERS you see was invested in both Enron and WorldCom stock and has been hit hard by the debacles that occurred in each company. The PERS system lost about $46 million after Enron self-destructed and another $63 million following the WorldCom scandal.

These losses occurred because false profits were inflated and corporate books were doctored. Under the PERS system, an 8 percent rate of return is guaranteed for the 290,000 Oregon active and retired members of PERS. Oregon taxpayers have to make up the difference following an ENRON debacle or WorldCom scandal, and my State's budget is not prepared for this kind of loss.

While this bill goes far in creating accountability, I am interested in finding out if there is more we can do and am asking the General Accounting Office, in consultation with the Securities and Exchange Commission and the Department of Labor, to report to Congress on the extent to which Federal securities laws have led to declines in the value of stock in publicly traded companies and in public and private pension plans.

I believe this study is necessary because many public and private pension plans continue to rely on the continued stock growth in publicly traded companies, much like the PERS system. I hope this study will provide the needed information so public and private pension plans can reevaluate future investments in publicly traded companies.

We cannot stand by and watch our hard working Americans ruin their pension systems while corrupt corporate executives take advantage of investors. I am proud of the work the Senate has done in the last week in creating accountability and responsibility in corporate America and look forward to working on this issue in a way that will help the investors and pensioners in the PERS system in Oregon.

Mr. AKAKA. Mr. President, I rise today to express my support for the Public Company Accounting Reform and Investor Protection Act of 2002. I thank Chairman Sarbanes for his leadership and the Banking Committee's staff for their efforts which have resulted in a measure which is fair, realistic, and protects investors. The steady disclosure of accounting scandals and corporate misdeeds underscores the need for legislation to protect investors and to restore public trust in the accounting industry and financial markets. Chairman Sarbanes has been the leading voice for reform. Our Banking Committee held ten hearings on accounting and investor protection issues in February and March. These hearings produced extremely valuable information from which S. 2673 was developed.

Public confidence has been shaken by the incidences of fraud and misrepresentations revealed in the financial statements of companies. Enron, Xerox, and WorldCom are just a few examples of corporations which have misled investors with their financial statements. Since 1997, there have been almost 1,000 restatements of earnings by companies. Investors have suffered substantial financial losses and are unsure of the validity of the audits of public companies. There is a lingering fear that there will be additional revelations of corporate fraud or misrepresentation. This has already harmed investor confidence and could continue to have an adverse impact on the financial markets.

I support this bill because it takes the appropriate steps to help restore public trust in the accounting industry and financial markets. S. 2673 would create an independent Public Accounting Oversight Board to provide effective oversight over those in the accounting industry responsible for auditing public companies. Previous attempts at regulation have been complex and ineffective. As the numerous auditing failures demonstrate, there is a need for an independent Board with authority to adopt and enforce auditing, quality control, ethics, and independence standards for auditors.

The legislation also requires additional corporate governance procedures to make Chief Executive Officers and Chief Financial Officers more directly responsible for the quality of financial reporting made to investors. After the numerous misstatements and corporate abuses that have occurred, this is a necessary step to ensure that corporate executives are held accountable for the financial statements of their companies. A particularly important provision in the bill would require that CEOs and CFOs forfeit bonuses, incentive-based compensation, and profits from stock sales if accounting restatements result from material noncompliance with SEC financial reporting requirements.

Rules to limit and disclose conflicts of interests for stock analysts are included in the legislation. There is a concern that firms pressure their analysts to provide favorable reports on current or potential investment banking clients. This provision would provide protection to those individual investors who often depend on analysts for making investment decisions without being aware of the potential conflicts of interest that the analysts may have with companies whose stock they evaluate.

The Public Company Accounting Reform and Investor Protection Act also authorizes additional appropriations for the Securities and Exchange Commission in order to provide the resources necessary to protect investors. According to the General Accounting Office, approximately 250 positions were vacant last year because the Commission was unable to attract qualified candidates. Additional funding is needed to attract and retain qualified employees. S. 2673 would authorize appropriations of $776 million for the Commission, which is much greater than President Bush's original budget request of $467 million. I am pleased that the President is moving closer to supporting the dollar amount included in the bill.

I also want to thank Chairman Sarbanes for including an amendment in the bill which I have worked closely with the Committee staff in developing. The amendment would require the General Accounting Office, GAO, to conduct a study of the factors that have led to consolidation in the accounting industry and the impact that this has had on the securities markets. Since 1989, the Big 8 accounting firms have narrowed down to the Big 5 and may soon become the Final 4. This study is necessary to evaluate the impact that consolidation has had on quality of audit services, audit costs, auditor independence, or other problems for businesses. In addition, the study is necessary to determine what can be done to increase competition among accounting firms and whether federal or state regulations impede competition.

I am pleased that the Senate has worked in a strong bipartisan fashion to strengthen this bill. Extremely valuable amendments have been added to the original committee bill. In particular, the Leahy and Biden amendments strengthen penalties for corporate fraud. These two amendments will help provide much needed additional protection for investors and retirement plan participants.

I encourage my colleagues to support the Public Accounting Reform and Investor Protection Act of 2002 to restore public trust in the accounting industry and the financial markets.

Mrs. FEINSTEIN. Mr. President, I rise to offer my support and cosponsor an amendment to S. 2673 offered by the senior Senator from New York, which would prohibit all loans by a corporation to its directors or executive officers.

Among the abuses committed by senior executives and directors at companies such as WorldCom, Enron, and Global Crossing is the practice of issuing large, favorable loans to those executives and directors.

Those loans can create conflicts of interest that limit that the ability of outside directors, in particular, to voice their criticism of the institution.

Many years ago, I served on the board of directors of a bank, and noted that at the time, several of the directors had hundreds of thousands of dollars worth of outstanding loans at that bank.

At the time, this occurred to me to be wrong, and I could not understand why these directors did not take out loans at another bank, thereby avoiding any conflicts of interest.

The only conclusion I could draw was that the loans to these directors were either easier to procure or made on more favorable terms than loans from another bank would be.

I see no justification for providing loans to corporate directors or executive officers. The goal of the reforms that we are currently debating should be to create an environment in which outside directors and major corporate officers act in as pure and honest a manner as possible.

They should not enter into any appearance of conflict, such as the conflict that occurs when the corporation that they serve extends them a personal loan.

When an individual investor chooses to buy a stock, he or she does so with the full knowledge that it might turn out to be a bad investment. The stock may appreciate in value, but it might also go sour.

Anyone who makes that investment knows that the only way to be sure not to lose any money is to keep the money in cash or buy a T-bill.

But that is not the way it worked for the CEOs and directors of some of the largest public companies in this country.

For example, Bernard Ebbers, the former CEO of WorldCom, took out $430 million in loans from his company between September 2000 and the end of 2001.

When the SEC began investigating WorldCom earlier this year, $343 million in loans were still outstanding, most of which may never be recovered by WorldCom's investors.

Those loans to Ebbers are far from unique in corporate America today. One of the most egregious examples of this type of abuse recent months is the disclosure of $3.1 billion in loans extended to family members and affiliated business interests of the Rigas family by Adelphia Communications, a publicly traded company controlled by the Rigas family.

These loans were never disclosed to shareholders, and were apparently used to shore up a wide variety of business deals involving Rigas family members, including a golf course and an infusion of cash into the Buffalo Sabres hockey team.

On July 9, President Bush went to Wall Street and called for, among other things, ''an end to all company loans to corporate officers.''

I believe that the President was right, and have cosponsored this amendment with that goal in mind.

Investors have a right to know exactly how much of their dividends are going to pay for excessive pay packages. They also have a right to expect that the board of directors is truly independent and that no directors are tied too closely to the corporation they serve because of loans they have received from it.

Ms. SNOWE. Mr. President, I rise today to speak in support of the legislation we are considering, S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002.

Last fall, we watched as a company once in the top 10 of the Fortune 500 imploded from the weight of its own complex efforts to mask debt and hide losses. We watched as the company stock-laden retirement plans of Enron's loyal employees dwindled by $1 billion. Meanwhile, company executives cashed out their own shares while these employees were barred from doing so. And finally, in congressional hearings, we watched and listened as former Enron executives either chose to remain silent, or pointed fingers of blame at everyone's actions except their own.

Tragically, the bankruptcy of Enron was no anomaly in the business sector. Rather, it was only the beginning. It ultimately proved to be a watershed event, as several other companies have reevaluated their own business and accounting methods, and found significant indiscretions. Global Crossing, a telecommunications company, is being investigated by the SEC and FBI in regard to questionable accounting practices used to artificially inflate revenue. Adelphia Communications, a cable company, is now in bankruptcy proceedings due to investigations by the SEC and two federal grand juries for off-balance sheet loans to the company's founders.

More recently, Xerox announced that it would restate 5 years of results which could affect the true nature of what had been reported as $6 billion in revenues. And on June 25, WorldCom announced that it had misrepresented $3.8 billion in expenses over five quarters, therefore allowing the company to report financial gain, when in reality, the company was experiencing a net loss.

While the downward spiral of each of these companies was unique, common threads are woven through each of their failures. First, the insistence by executives that, above all else, stock price remain high was an integral part of the creation of the financial woes of each company; in essence, this short-term focus compromised the long-term viability of these entities.

What has also been disturbing as these revelations have come to light is the role played by the so-called independent auditors of the companies under investigation. While the accountants are not the sole perpetrators of the financial deception that has occurred, the apparent lack of scrutiny of the financial statements of the aforementioned companies has created an inherent mistrust in the accuracy and integrity of the true nature of corporate earnings.

Furthermore, the practice of allowing auditing companies to perform non-audit services can have the ultimate effect of allowing such companies to audit the work of their own personnel. This practice defeats the purpose of having an unbiased entity objectively reviewing the merits and accuracy of financial statements.

The legislation we are considering in the Senate includes crucial provisions that will play a pivotal role in restoring confidence in our market system, and enhancing the public and private sector controls that are in place to monitor the relevant entities. The legislation creates a Public Accounting Oversight Board, which will be an entity solely focused on companies that audit and account for publicly traded firms. This oversight authority will include the ability to investigate and punish any wrongdoing by companies under SEC jurisdiction as well as their auditors. The bill also disallows simultaneous auditing and consulting, while providing for the Board to approve certain exceptions to non-specified non-audit services under this rule.

The pending legislation also makes important strides in ensuring that any gain made by company executives be subject to retrieval if the company has to prepare an accounting restatement due to certain noncompliance with SEC regulations. As Treasury Secretary Paul O'Neill so aptly states in response to the actions of Enron executives, ''I really do believe that the CEO is in effect the steward for all the people who work in their organization. And that with that responsibility goes a commitment that the people come first and that the practices are open and above board and without reproach.'' These executives should not be able to leave their beleaguered companies, pockets stuffed with profits from cashed out stock options, while investors and employees suffer the consequences of questionable company practices.

With the unanimous passage of the Leahy amendment, the Senate recognized the need to strengthen penalties for the punishment of those involved in corporate crime. For example, the amendment created a new felony for persons involved in the destruction of evidences—to address in the future such indiscretions as the document shredding perpetrated by Arthur Andersen's Enron Audit team. In addition, the Leahy amendment grants important whistleblower protections to company employees—like Enron's Sherron Watkins—who bravely report wrongdoing occurring within their own corporation.

The bottom line is that integrity and trust are at the core of a successfully functioning market system. These recent business scandals have severely damaged this foundation. And as with any foundation in disrepair, leaving unaddressed the damage caused by lost faith in the system will lead to continued instability, or worse.

Therefore, we in Congress have an obligation to do what we can to maintain and build investor confidence and faith in our free market system. I believe that the legislation we are considering today is a crucial first step toward that end, as well as ensuring the full rebound of our floundering economy.

Mrs. FEINSTEIN. Mr. President, I rise in support of S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002.

Nearly every day, it seems, the front pages of our newspapers are awash in stories about the latest corporate accounting scandal. Just 3 weeks ago we learned that WorldCom hid $3.8 billion in expenses in the last five quarters alone.

And WorldCom is merely the latest member of an increasingly large group of public corporations that have knowingly deceived shareholders, directors,

and, in some cases, their own auditors. WorldCom, Enron, Tyco, Global Crossing, Xerox—the list goes on and on.

Much attention has been focused on the huge sums that CEOs and other senior executives have extracted from these companies in the form of incentive pay, but even those large sums pale in comparison to the total shareholder value that has been destroyed as a result of these disclosures. At its peak, WorldCom's market capitalization exceeded $190 billion, making it, for a time, the most valuable telecommunications services company in the world. Now, WorldCom shares are effectively worthless.

Despite a slowdown in the telecom industry, some of the value of those shares might have been preserved had its executives relied on sound management, instead of deceptive accounting, to make their numbers.

Who will suffer most from the immense value decline associated with WorldCom and other companies that have deceived their investors? Not the senior executives, most of whom have stashed away enough of their pay to let them spend the rest of their days in comfort. The people who will really suffer are the thousands of employees whose retirement savings were proudly invested in company stock; or the millions of public employees whose pension funds held shares in these companies. Those are the people who will bear the brunt of this value decline.

CalPERS, the pension fund set up to invest the retirement savings of 1.3 million public employees in my home State, has estimated that it suffered a $580 million loss on WorldCom stocks and bonds. That means that the average California public employee lost over $440, not including any investments in WorldCom they may have held independently.

To give you some perspective on that amount, the amount of money lost by California public employees due to the WorldCom fraud alone is likely to exceed the entire sum of the tax rebate checks they received as part of the President's tax cut last year.

In fact, every American who invests in our stock markets will suffer as a result of these scandals, because every scandal further tarnishes the reputation of American corporate honesty for investors around the world. In recent months, those investors have pulled billions of dollars in investments out of our country, further reducing the value of stocks and weakening the dollar.

The only way that we can turn this culture around is by fostering a corporate environment that rewards honest management by senior executives and severely punishes fraudulent activities. That is exactly what would be achieved by the bill proposed by Senator SARBANES.

The Sarbanes bill tackles many of the major problem areas associated with recent corporate scandals. Most importantly, the bill would make it much more difficult for public companies to bypass or trample over auditors in attempt to produce inaccurate or deceptive financial statements.

For the first time, the Sarbanes bill creates a truly independent accounting oversight board, staffed with objective, unbiased overseers, who can enforce rules and prosecute violators without having to vet their decisions elsewhere. Unlike the Public Oversight Board, which depended on fees from the very auditors it was meant to regulate, this new board will be funded by mandatory fees paid by all public companies. These are fees that cannot be withheld at the whim of those who have the greatest interest in undermining the work of the board.

The Sarbanes bill does not stop at the creation of this new board, however. Rather, the bill strengthens areas of the law that have proven inadequate to prevent the fraudulent corporate behavior that has become so prevalent today.

The Sarbanes bill prevents auditors from controling the entire financial reporting system at an individual company by both designing the internal audit system, and then purporting to offer an unbiased external audit. The bill will also stiffen the resolve and oversight of board of director audit committees by requiring, among other provisions, that all committee members be independent and that they be given free reign to question auditors without executive officers present.

But rather than rely solely on increased oversight, the bill moves to reduce conflicts of interest at their source, by requiring the CEO and CFO of a company that has had to restate its financial accounts to disgorge any bonuses or other incentive pay they received in the year prior to the misstatement.

Moreover, under an amendment sponsored by Senator SCHUMER and myself, company loans to executive officers are now prohibited, sharply limiting the types of ''hidden'' compensation that can be offered to executives without being fully disclosed to shareholders. Our amendment passed by a voice vote and will go a long way toward preventing the types of loan-related abuses prevalent at WorldCom, Global Crossing, and other companies now under investigation by the SEC for loan-related abuses.

When Senator SARBANES drafted this bill, he focused on the single reform that matters most: increased transparency. Unfortunately, we may witness more corporate failures like those of Enron or WorldCom. These are failures that are brought on by over-investment, the accumulation of excessive debt, or an ill-conceived belief in markets or services that never live up to expectations.

What we cannot abide by, and what the Sarbanes bill goes a long way toward preventing, is the ability of senior executives to hide those bad decisions in misleading financial statements. By ensuring true auditor oversight, creating meaningful penalties for senior executives who defraud investors, and putting in place new disclosure requirements, this bill will dramatically increase the quality and timeliness of the information available to individual investors.

The United States is blessed with the best-regulated markets in the world, and for that we have been rewarded with tremendous foreign investment and a leadership position in world financial markets.

A vote in favor of this legislation is a vote to strengthen our position and avoid a wholesale loss of investor confidence that would be perilously difficult to restore.

Mr. HATCH. Mr. President, I wish today to express my support for S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002. I am pleased that the Senate is acting decisively to impose harsh, swift punishment on those corporate executives who exploit the trust of their shareholders and employees while enriching themselves. The recent corporate scandals demonstrate just how important it is to hold corporate executives accountable. I believe it is equally important for prosecutors to be provided with the tools necessary to aid in the investigation of these forms of fraud.

During this debate, our colleagues on both sides have consistently called for increased penalties for corporate fraud offenses. This week, as the Dow Jones index plummeted nearly 300 points—representing the biggest single day point drop since the week following the attacks of September 11 we voted unanimously to adopt a series of amendments that will strengthen criminal fraud penalties and create new criminal fraud offenses. I cosponsored an amendment with Senator BIDEN to enhance white collar penalties. And I supported an amendment offered by Senator LOTT, which incorporated the President's proposal by enhancing white collar penalties, supplementing existing criminal laws, and increasing the Security and Exchange Commission's administrative powers to enforce this nation's securities laws. I also supported Senator LEAHY's amendment, a measure I worked to improve in committee. This amendment includes new criminal and civil provisions that I believe will also assist in deterring and punishing future corporate wrongdoing.

Further, I am glad to see the Senate finally considering legislation that will overhaul government regulation of the accounting industry. I agree with my distinguished colleague from Maryland that there is an inherent conflict of interest between internal and external auditing. The same people should not be installing the internal control system, performing the internal audits, and then reporting on the financial statements. The external auditor sometimes has to be tough as nails, and willing to disagree with its client's top

executives. It is hard to be the bad cop when you are also the personal trainer.

However, Congress cannot always second-guess the desires of investors. In some cases, stockholders, bondholders, and other stakeholders will be worse off if Congress imposes too strict a barrier between consulting and auditing. This is especially true for small businesses that may not be able to afford to hire both a consulting firm and a separate accounting firm. And, as the President has noted, in our fast-changing economy, Congressionally-imposed barriers between different business practices can end up becoming Congressionally-imposed barriers to productivity growth.

I think the bill before us represents an effort to strike a good balance between these two competing goals of auditor independence and business innovation. It prevents internal and external audit work from being done by the same firm, and it establishes clear lines of responsibility and accountability. At the same time, the corporation's independent audit committee will be permitted to authorize certain consulting services if they are convinced it is in the shareholders' best interest. This audit committee, consisting of members of the client's board of directors, will be required by law to be completely independent of the corporation itself. This will mean that if the CEO and other top corporate officials believe it is in their company's best interests to have their accounting firm help with, for example, tax consulting and preparation, the corporate officials will have to argue the merits of their case before the independent audit committee. That kind of independence makes good sense, and it makes good law.

The Federal Government needs to help investors whether banks, pension funds, or individual investors in their quest for accurate information about the financial condition of America's businesses. Doing so is crucial for our economic long-term health. While Enron's and WorldCom's financial shenanigans contain many differences, the similarities are far more important. These were both firms that borrowed too much money during the expansion years of the late 1990s. And when it started getting tough to make the debt payments, both firms tried to hide their financial difficulties through creative bookkeeping, cooked up at company headquarters. They succeeded for a time, but the combination of investor vigilance, media investigations, and government scrutiny are eventually bringing the facts to light.

If there had been real financial transparency, both current stockholders and potential investors could pierce the veil of bookkeeping to immediately see these companies' true financial situation. This may not have prevented the painful layoffs and tragic loss of retirement assets by thousands of employees. However, with more accurate and timely information, investors, directors, analysts, financial institutions, and others could have intervened earlier and helped to restructure these firms before all-out catastrophe threatened. When it comes to business information, knowing sooner is always better than knowing later.

And even more importantly, if corporate officials had faced the threat of serious jail time and the certain knowledge that their financial and accounting capers would be exposed to the world, they would have been much less likely to have overborrowed and underdisclosed in the first place. Mr. President, the bill on which we will vote today, on which Senator SARBANES and many of our colleagues have worked so hard, contains solid provisions that I believe will put real fear of serious consequences into the minds of corporate wrongdoers.

Does this bill represent a perfect solution to the corporate accountability issues presently facing our country? Of course not. I would have written a different bill in several respects. However, I believe that the bill is a good attempt to balance competing interests and different political philosophies. As the bill goes to conference with a House-passed bill that has some significant differences, I expect the balance to improve even further.

Strengthening corporate accountability is crucial to our nation's long-term welfare. If Congress and the President can act together to help increase corporate transparency and restore investor confidence, then businesses will be better able to raise investment capital. Greater access to capital will enable U.S. businesses to fund the groundbreaking research and to purchase the high-tech equipment that is the foundation of America's long-term prosperity. And Americans from all walks of life will reap the rewards.

Mr. MCCAIN. Mr. President, I rise today as a proud cosponsor of amendment No. 4283 that is being offered by Senator LEVIN. The amendment says that the standard-setting body for accounting principles that is set up in this bill shall review the accounting treatment of employee stock options and shall within a year of enactment of this act adopt an appropriately generally accepted accounting principle for the treatment of employee stock options.

Unfortunately, this body is not going to get the opportunity to vote on this reform or the reform I proposed last week requiring the expensing of stock options. We want to help restore investors' confidence for the long run, but we are being denied an opportunity to do this. A simple vote on this amendment is all we ask. And yet, we are being denied, and that is truly regrettable. I see no reason that a vote should not be permitted on this amendment, but let's face it—the fix is in.

I want to talk more about the expensing of stock options.

Americans have heard from the President and practically every Member of the Senate about the vital need to restore trust and transparency in business practices so we can begin to repair investors' faith in the honesty of our companies and in our markets. We need more transparency on a company's books so that any person wanting to invest their hard-earned money has a true financial picture of the company they are planning to invest in.

This issue of expensing stock options is not going to go away. Look at what has just happened. Coca-Cola, a Fortune 100 company, just announced that it will begin in the fourth quarter to treat all employee stock options as an expense. And I believe more companies will follow Coca-Cola's lead. It is only a matter of time.

Before I yield the floor, I would like to read a quote from a July 22, 2002 Weekly Standard article, ''Big Businesses Bad Behavior,'' in which economist Irwin Stelzer, Director of Regulatory Studies at the Hudson Institute, eloquently explains why governmental action is needed to restore faith in our financial institutions. The ''opposition of important segments of the business and accounting communities to reform,'' he writes, ''means that government must take on the burden of revising the institutional framework within which business operates—setting the rules of the game that will allow markets to do their job of allocating human and financial capital to its highest and best uses. As Milton Friedman, no fan of big government, has written, society needs rules and an umpire 'to enforce compliance with rules on the part of those few who would otherwise not play the game.' '' I couldn't agree more.

I ask unanimous consent that the following articles be printed in the RECORD.

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

[From the Weekly Standard, July 22, 2002]

BIG BUSINESS'S BAD BEHAVIOR

(By Irwin M. Stelzer)

No sensible person can quarrel with what the president told the Wall Street biggies he addressed last week. Crooks should be forced to disgorge their ill-gotten gains, and should go to a jail for extended periods. Enforcement agencies should be given adequate resources. Corporate executives should be held responsible for the accuracy of what they tell shareholders, disclose their compensation in annual reports ''prominently and in plain English,'' and explain what their ''compensation package is in the best interest of the company'' Board members should be independent and ''ask tough questions.'' Shareholders should speak up. Most important, chief executive officers should crate a ''moral tone'' that ensure the company's top managers behave in accordance with the highest ethical standards.

The quarrel comes not with what the president said, but with what he didn't say. In the game of matching his laundry list of reforms against the inevitably longer list generated by the Daschle-Leahy-Sarbanes-Gephardt crowd the president inevitably loses, as last week's unanimous vote of Senate Republicans for the Democrat's bill proves. Longer

sounds better if you're just compiling a laundry list of items aimed at punishing politically unpopular corporate bad guys. Only if there is a conceptual framework within which specific reforms can be created and defended is there any hope that a sensible corporate governance system will emerge from the congressional legislation factory.

Start with the fact that it is important to distinguish the role of government from that of the private-sector institutions that monitor corporate America. The latter can be relied upon to act when the integrity of the system is threatened, not because these private sector players are a bunch of goodie-two-shoes, but for the more reliable reason that honest markets and accurate profit reporting are in their interest. Just as gamblers won't put their bets down when they know a wheel to be rigged, so investors won't put their money into shares if prices can be manipulated by inflated profit reporting or special treatment of insiders.

Hence we have a stream of quite sensible reforms proposed by the Business Roundtable and the New York Stock Exchange, some going beyond those being pushed by the president. And we have companies scrambling to adopt governance rules and accounting practices that will reassure investors that the game is not rigged against them. No CEO wants to see his company's stock battered by investors who fear that share values will evaporate as profits are restated to eliminate the imaginative counting of revenues (claim them now, before the customers pays or even considers paying) and of costs (capitalize rather than expense every outlay, regardless of the life of the item purchased). Plummeting share prices are dangerous to the careers of chief executives.

But, as the president recognized when he called for higher ethical standards, self-interest cannot be relied upon to produce honest business dealings unless that self-interest includes what Adam Smith called a ''desire to be both respected and respectable,'' and such esteem is seen to flow not from ''wealth and greatness'' but from ''wisdom and virtue.'' Which may be what Bush had in mind when he said that we need ''men and women of character, who know the difference between ambition and destructive greed'' to lead our major corporations. And it may be what he had in mind when, immediately after delivering talk, he returned to Washington to award the Presidential Medal of freedom—America's highest civilian honor—not to the nations' richest (Intel founder Gordon Moore may have been the one exception), but instead to folks who have enriched our national life with their sharp iconoclasm (Irving Kristol), gentle humor (Bill Cosby), and quiet devotion of family and good causes (Nancy Reagan).

Still, neither self-interest reform nor a new emphasis on business ethics can be relied upon to save capitalism from the capitalists. Immediately after the president's speech the White House was bombarded with calls from CEOs protesting his demand that they disclose their compensation packages in easily accessible terms. I well recall the reaction when, several years ago, I made a similar suggestion at a think-tank-sponsored meeting of top business and government officials. One captain of industry replied that he would not tell his shareholders how much he earns lest he encourage kidnappers (as if they would only become aware of his affluence if he revealed it in his company's annual report).

Nor did anything the president said persuade the accountants to call off their lobbyists, who continue to oppose reforms that would make their devotion to the accuracy of their audit statements unambivalent. Or convince CEOs of Silicon Valley and other high-tech companies to bow to Alan Greenspan's call for them to report their share options as the expenses they most certainly are. Again, I recall a discussion that followed a similar proposal I made several years ago. One CEO said that he couldn't place a value on these options for purposes of reporting to shareholders, even though he could value those same options for the purpose of deducting their cost from his profits for tax purposes. Another claimed that if he treated options as an expense, he would wipe out his entire reported earnings, an argument, I suppose, for refusing to account for almost any expense that constitutes a threat to reported profits—what might be called the WorldCom excuse. (For the economy as a whole, experts estimate that expensing of options would reduce aggregate corporate profits by about 8 percent.) Note that the issue is not whether companies, especially start-ups, should be allowed to use options to attract talented staff, but whether they should have to treat this compensation as an expense when reporting profits. As Greenspan points out, refusing to deduct the cost of options diverts capital and other resources from truly profitable to only apparently profitable firms.

This opposition of important segments of the business and accounting communities to reform means that government must take on the burden of revising the institutional framework within which business operates—setting the rules of the game that will allow markets to do their job of allocating human and financial capital to its highest and best uses. As Milton Friedman, no fan of big government, has written, society needs rules and an umpire ''to enforce compliance with rules on the part of those few who would otherwise not play the game.''

To keep rules to a Friedmanesque minimum, we need a conceptual framework for reform rather than competing laundry lists. The first step is to understand the limits of criminal sanctions. Yes, it makes sense for the Senate to insist, as it did unanimously last week, that the crimes perpetrated by some corporate managers and accountants be defined as precisely as possible. Yes, criminal sanctions can be used to make life miserable for those caught with their fingers in the till and to deter from evildoing those for whom Adam Smith's ''desire to be respectable and to be respected'' is insufficient inducement to decent behavior. But, as law professors David Skeel and William Stuntz recently pointed out in the New York Times, ''Criminal laws lead people to focus on what is legal instead of what is right. . . . In today's world, executives are more likely to ask what they can get away with legally than what's fair and honest.'' The Senate was pleased with itself for toughening the laws under which executives will operate, but criminalizing bad behavior is no guarantee of future good behavior—behavior that is not merely indictment-avoiding, but is efficiency- and wealth-enhancing.

Instead, policymakers should turn to that trusty guideline, ''Get the incentives right.'' The problems we are facing stem from the fact that we have provided the four guardians of shareholder interests—auditors, analysts, directors, and corporate managers—with the wrong incentives.

Auditors know that success or failure in their profession depends not so much on the accuracy and realism of their audits, as on their ability to conduct themselves so as not to imperil the flow of consulting fees to their firms. Enron paid Arthur Andersen as much or more in consulting than in auditing fees; Andersen's $12 million in consulting fees from WorldCom dwarfed its $4 million audit fee. It would have taken a brave auditor indeed to fly in the face of these clear incentives and tell Enron's management that placing some item off-balance-sheet might be technically legal, but would obscure the company's true financial condition, or to insist on access to documents that might have revealed WorldCom's recording of current expenses as capital investments. Rather than rely on such strength of character, some 70 percent of the directors surveyed by McKinsey & Co. now say they will in the future oppose the granting of such contracts, a policy that Arthur Levitt, Bill Clinton's SEC chairman, was unable to push through over the massed opposition of the accountants' lobbyists. All of which makes Bush's silence on this subject rather odd, and the Senate Democrats' insistence on a broader prohibition on consulting than is contained in the House Republicans' bill more likely to get the auditors' incentives lined up with shareholder interests.

Once those incentives are in place, other provisions of the House and Senate bills become unnecessary. Both bills call for still more regulation of auditors, and create still another regulatory body to set and oversee accounting standards. One need not be an apologist for the accounting profession to suggest that such a move would merely continue the failed practice of attempting to control auditors by closely supervising them. There is no reason to believe that such supervision will be any more successful in the future than it has been in the past, especially since in the end auditors are required only to say that they followed often complex and arcane rules that necessarily involve the exercise of judgment.

Instead of such ongoing regulation, including half measures that merely restrict auditors from engaging in some specified form of consulting activity, let's get the incentives right by complete, mandated separation of the audit and consulting businesses, as John McCain proposes. Lead the CPAs not into temptation, and reliance on porous Chinese walls becomes unnecessary. Auditors will compete for business on the basis of their ability to provide a product that gives investors confidence in the transparency and accuracy of the company accounts, with the uplifting effect that will have on the prices of their clients' shares. (Audit firms are unlikely to compete on price, since the risks associated with the audit business have risen. There are only four major firms, and rotation of auditors on something like the five-year basis favored by Senate Democrats, although necessary to prevent over-identification between client and auditor, is a classic cartel market-sharing arrangement—all legal, in this case.)

Analysts are another group who now face perverse incentives. Investors may have been naive to believe that these students of income statements, balance sheets, and other economic data would provide honest advice about a company's financial condition and prospects. But they had a right to such a belief, since the commissions they pay their brokers are supposed to be in return for such advice. Along comes New York State Attorney General Eliot Spitzer and revelations that some of these supposed agents of the shareholders' interests are recommending stocks they know to be ''shitty'' in order to win investment banking business for their partners and increased compensation for themselves. All of this in the presence of Chinese walls erected to separate bankers from analysts. It took no Joshua-plus-trumpet to bring these walls down; the prospect of hefty banking fees was quite enough. Jack Grubman, the Salomon Smith Barney (a division of Citigroup) analyst famous for his enthusiastic recommendations of WorldCom stock, last week told the House Financial Services Committee, ''No one can sit here on Wall Street and deny to anybody on this

committee that banking is not a consideration in the compensation of analysts of a full-service firm.'' Forget the double negative: Grubman was conceding that part of his salary, which reached $20 million per year, came from the $140 million in underwriting fees that his firm received from WorldCom over the past five years.

Again, get the incentives right. One way, now preferred on Wall Street, is to write contracts that make analysts' compensation independent of the fees flowing into the investment banking divisions of the large firms. But just how analysts can prosper if the banking division isn't earning enough to pay the rent is unclear. Besides, unless analysts suddenly become willing to issue ''sell'' recommendations just when their investment banking partners are pitching a company for business, this proposed reform is unlikely to be effective, especially after the current heat is off and congressional attention turns to other matters. True or not, bankers believe that CEOs, being human (yes, most are), are likely to take into account what a firm's analysts are saying about their stock when selecting an investment banker. It would be an unusual CEO, indeed, who would cheerfully receive an investment banker after reading in the morning papers that the banker's analyst-partner had just downgraded his company's stock from a ''buy'' to a ''sell.'' Many investment bankers—not all, but many—will find ways to persuade their partner-analysts to be team players. Banking fees are large enough to give them an enormous incentive to do just that.

So, let's get the incentives right and mandate a separation of the investment banking and stock-picking businesses, another McCain proposal. Analysts would then have an unambiguous incentive to make the best ''buy'' and ''sell'' recommendations they possibly can, so as to build reputations that will attract investors to them. And investors will get something in return for their commission dollars—honest advice from men and women expert in the analysis of corporate financial data, competing with one another to attract clients by creating a track record of picking winners.

Which brings us to Directors. Again, we have a case of skewed incentives. Directors are hired by managers to protect shareholders from, er, those same managers. To make sure the directors remain friendly, executives often shower them with perks and consulting fees, the continuation of which depend on the goodwill of the CEOs they are supposed to be supervising. It is the rare director who chooses to feast on the hand that feeds him, not merely because he is venal, but because the courtesies lavished upon him genuinely persuade him that the CEO is a decent chap, deserving of every million he is paid.

To get the incentives right, directors must be selected by vigorously participating shareholders, most especially institutional shareholders, from a slate of demonstrably independent people who, although well compensated, have reputations worth protecting. Nominations for that slate should come from sources other than the company management, to avoid a you-sit-on-my-compensation-committee-and-I'll-sit-on-yours, selection process. The directors should not accept anything within the gift of the CEO; their directors' fees should be compensation enough, and high enough to provide an incentive to accumulate a record that will persuade shareholders to reelect them at reasonably regular periodic intervals—perhaps throwing in term limits to make sure that directors and management don't develop too cozy a relationship.

Finally, we come to the CEO's and top managers. How to create incentives to induce managers to act in the interests of the shareholders who own the business has bedeviled students of corporate governance ever since 1932, when Adolph A. Berle Jr. and Gardiner C. Means published their classic ''The Modern Corporation and Private Property,'' detailing the potential for managerial abuse created by the separation of ownership from control of large corporations. Managers placing self-interest above the interests of owners were immune to retaliation by far-flung and essentially powerless shareholders. That situation was partially corrected when Mike Milken and his debt-financed corporate raiders snatched control of many companies from the worst abusers of shareholders' interests, grounded fleets of corporate jets, sold off hunting lodges, and generally sweated the fat out of expenses—a wonderful example of markets working to correct abuses that seemed beyond the reach of regulators.

But nowadays there aren't many people who want to be like Mike, so it is incumbent on policymakers to get managers' incentives right. President Bush's proposal for publication of compensation arrangements in an accessible format would be a step in the right direction, its effectiveness attested to by the howls of outrage it produced from some CEOs. Truly independent boards, created along the lines described above, would be another advance, since compensation committees not beholden to corporate managements are more likely to relate pay to performance than the supine committees that now exist on some boards. Add in the requirement that options be treated as profit-reducing expenses—another McCain proposal that so horrified senators that it has for now been derailed—and you will have a new parsimony that will keep salaries to levels commensurate with effort and performance. Under such a regime, executives would have a clear incentive to spend their time creating efficiencies and new markets, rather than figuring out how to cash in options, and how to persuade their boards to revalue options if poor company performance has driven the stock price below the price at which the options may be exercised, rewarding executives whether or not they have delivered long-term value for shareholders.

This may sound like an awful lot of regulation. But it is of a special, self-liquidating sort. If we adopt policies that get the incentives of all the players right, government can then get out of the way so that the various actors can do their thing—audit, advise on investments, monitor management performance in the interests of owners, and manage the company in a world in which managers' interests coincide with those of shareholders. The right kind of regulation can be a model of minimal—and effective—government.

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LEADING THE NEWS: COKE TO EXPENSE EMPLOYEE OPTIONS

MOVE MAY SPUR OTHERS TO FOLLOW AND COULD SHAPE CURRENT TALKS IN SENATE

(By Betsy McKay)

Atlanta—Coca-Cola Co. said it will begin in the fourth quarter to treat all employee stock options as an expense, a move that could accelerate debate in corporate boardrooms over whether to adopt that accounting practice.

The beverage company's decision also could shape the outcome of discussions today in the Senate over whether to instruct a new accounting-oversight board to study the fate of stock options—in particular, whether they should be expensed as other forms of compensation.

Republicans tried Friday to block the measure, offered as an amendment to an accounting-overhaul bill. But Democrats say they will try again before final passage of the underlying accounting bill, expected late today.

''We are in a new environment,'' Gary Fayard, Coke's chief financial officer, said in an interview. ''There had been a loophole in the accounting, and we thought it was the right time to step up to the plate.

''There's no doubt that stock options are compensation,'' he added. ''If they weren't, none of us would want them.''

Coke said its decision, announced yesterday morning, will reduce earnings only slightly—by about a penny a share—for 2002. That reflects the fact that Coke doesn't grant options as extensively as do some other companies. And while Coke isn't the first public concern to make the accounting change—Boeing Co. and Winn-Dixie Stores Inc. in recent years began calculating stock options as an expense—its high profile could prompt other businesses to consider calls from investors, regulators and politicians for greater financial candor.

Last week, AMB Property Corp., a San Francisco-based owner of industrial real estate, also said it would record stock options as an expense.

Proponents of expensing say options are compensation and should be treated as such, especially since generous option awards dilute the value of shares outstanding. Opponents say options are difficult to value and argue that expensing would confuse investors, not enlighten them. Changing accounting rules would reduce earnings at some companies.

In 1993, the Financial Accounting Standards Board tried to mandate the expensing of options but retreated in the face of stiff opposition from business leaders and Congress. The issue flared up again after Enron Corp's demise late last year and has taken on new life with recent disclosures of earnings misstatements at WorldCom Inc.

Coke's Chairman and Chief Executive Douglas Daft raised the idea of recording stock options as an expense about two months ago, Mr. Fayard said, as news of financial scandals continued to unfold. About 10 days ago, with lawmakers calling for tougher accounting standards, Mr. Daft fielded the idea in phone calls to Warren Buffet and some other Coke directors. Mr. Buffett, Coke's largest shareholder, for years has been an outspoken proponent of expensing options.

Mr. Daft pressed ahead with his proposal to make the accounting change last week after President Bush called in a speech for better corporate governance. Mr. Bush didn't embrace the idea of forcing companies to expense options, but numerous economists and financial experts, including Federal Reserve Board Chairman Alan Greenspan, have endorsed the move, and growing investor unease sent stocks plummeting last week.

Mr. Daft convened a meeting at 7 a.m. Thursday in Sun Valley, Idaho, where he and several other directors were attending a conference. The discussion, over breakfast in the condominium of director Herbert Allen, was short. It wasn't hard to win the directors' support; Mr. Buffett, in particular, applauded the move.

''Our management's determination to change to the preferred method of accounting for employee stock options ensures that our earnings will more clearly reflect economic reality when all compensation costs are recorded in the financial statements,'' Mr. Daft said in a statement. A spokeswoman said he wasn't available for further comment.

''I'm delighted,'' Mr. Buffett said in a telephone interview. ''This tells shareholders what really happens in terms of costs.'' The new plan, he said, also eliminates bias in structuring compensation packages, encouraging Coke to design packages that fit its and employees' needs without regard for accounting.

While Mr. Buffett said he never pushed Coke to treat stock options as an expense, he said he did encourage the company last week to take a further step and use independent investment banks to determine the fair value of stock options that Coke grants. The move is intended to ease concerns over whether options that are expensed are being properly valued. Coke will ask two investment banks, Goldman Sachs & Co. and Citibank, to price options, and will expense the option value based on the average of those firms' quotes.

Coke said stock options will be expensed over the period in which they vest, based on the value the day they are granted. Coke's 2002 options plan authorizes as many as 120 million shares, or 4.8% of the company's share outstanding. The company usually issues 25 million to 30 million shares a year, however.

For 2001, Coke's top five officers received options on 3.7 million shares, including options on one million shares for Mr. Daft. About 8,200 of Coke's 38,000 employees received options during 2001.

Mr. Buffett predicted Mr. Daft's move could make him ''unpopular'' among other CEOs, but he also said that while business leaders had managed to quash efforts in 1993 to force expensing of stock options, the current environment could force them now to accept it.

''I'm sure a few others will do it,'' he said. ''It may be that good practices drive out the bad.''

Sen. John McCain (R., Ariz.) issued a statement applauding Coke's decision and expressing hope that ''other companies will follow suit.''

Judy Fischer, managing director of Executive Compensation Advisory Services, in Alexandria, Va., said she believes other corporations will follow Coke. ''If a corporation can do it without a lot of problems to their bottom line, I think a lot will follow suit,'' she said.

However, it wasn't clear how other companies will react, particularly high-tech businesses that rely heavily on stock options. A spokesman for Santa Clara, Calif., semiconductor maker Intel Corp., where all employees are eligible for stock options, said he couldn't comment on Coke's move. One lobbyist was skeptical. ''I doubt just because one company made this decision that other companies will follow suit,'' said Ralph Hellmann, top lobbyist for the Information Technology Industry Council, a high-tech trade association in Washington. ''Each individual company is going to make its own determination.'' Looking beyond 2002, Coke's Mr. Fayard said earnings per share will be reduced by about three cents in 2003, with the reduction gradually increasing to about nine cents a share by 2006, he said. But the change won't affect the company's cash flow, he said.

Mr. DOMENICI. Mr. President, I rise first in support of our free market economy. The revelations over the last few months of corporate officials having betrayed the trust of their employees and their investors is simply unacceptable. These corporate officials must be prosecuted to the full extent of the law and if additional penalties are required, then we should enact them.

But let us not forget, that despite these terrible, unconscionable acts perpetrated by some CEOs on their workers and investors, the principles of our free market economy remain the envy of the world. These principles have allowed our economy to be the most productive, most innovative, most creative system, that has created income and employment only dreamed of in other parts of the world.

One of these principles is property rights. But it seems that some corporate managers have forgotten that the companies they run are not their personal property to operate however they see fit or for their own benefit. The exuberance of the 1990s that Chairman Greenspan warned us about and the extraordinary income and wealth generated during that period, allowed for unethical persons in our business sector to exploit this time of growth for their own selfish purposes and to bend the rules for their own benefit.

So as we pursue new rules to punish those who have betrayed a trust—and we must—let us not allow the pendulum to swing so far that it jeopardizes the innovation and vitality of our economic system for the future. Rather than working against the principles that make our economic system so great, our actions should affirm these principles.

I am angry, shocked and extremely concerned about the revelations that have emerged in the past 6 months concerning the accounting practices of a number of public companies. To operate efficiently our free market system requires a high level of honesty and trustworthiness among its participants, especially among its key decisionmakers.

In the long run our economy—our stand of living—reflects not only our inventiveness and hard work but our moral character. Corporate executives have to be worthy of the key role they play. With all their wealth and high position comes responsibility. Sadly, some executives were not worthy of this responsibility.

Restoring the public's trust is of paramount importance. America's system of corporate governance and its trust in our financial reporting mechanisms have been shaken and restoring this trust is of critical importance. It will take more than words to restore that confidence and trust. It will take something that I, Senator DODD and others have been lecturing on for many years, and this is something not easily legislated. It will take a renewed awareness of the ethics of responsibility. It will take a reaffirmation that ''Character Counts.''

Reaffirming that ''Character Counts'' means not only encouraging our young people to live by the six pillars—trustworthiness, respect, responsibility, fairness, caring, and citizenship—but expecting that our corporate leaders adhere to these traits and conduct themselves accordingly.

Cooking the books has hurt thousands and thousands of hard-working Americans. American companies must adhere to the highest standards of public accounting ethics. Despite these abuses, as I have said our economy remains strong and the vast majority of CEOs are honest and abide by the rules. Unfortunately, a few bad characters have tainted the reputation of our enterprise system.

The President and the Congress are addressing reform. I will support these reform efforts that are aimed at regaining trust and confidence in our Nation's financial markets and ensure that American workers are protected from unscrupulous corporations. No violation of the public's trust can be tolerated.

But I also believe more can be done, and this bill before us moves us in that direction. I support:

Full and accurate disclosure: I endorse the SEC's proposals to require CEOs to certify that their financial statements completely and accurately reflect the true condition of the company.

Trust and accountability: Corporate leaders must be held accountable for any abuse of public trust. I believe that executives should be required to return moneys they received as a result of fraudulent accounting practices, as embodied in the Senate bill.

Independence: Boards of directors must exercise independent judgment and a substantial majority of board members must be independent of management.

Auditing reform: Strong oversight of the accounting profession is essential if we are to ensure independence of auditors and credibility of the auditing process.

Pension protection: I fully support steps that will protect the retirement savings of American workers. Workers should have freedom to diversify and monitor their own retirement funds, giving confidence that their investments will not fall prey to unethical executives.

I urge the SEC to move forward with the implementation of its proposed reforms. And, I strongly believe that the NYSE and the NASDAQ must proceed to improve their listing standards. I support the reform that works to strengthen our free enterprise system. It is our obligation as a Congress and as a country to ensure that the unethical few that are causing hardship for so many hard-working Americans, be swiftly brought to justice and face jail time. We will restore faith in our economic system for it is the greatest in the world. I support passage of the Senate bill.

Mr. COCHRAN. Mr. President, while I support the passage of this bill, I think we ought to recognize the role the Administration is already playing to deal with these serious problems of corporate responsibility.

I was pleased that President Bush announced last week his suggestions for corporate accounting reform. The President forcefully argued that higher

ethical standards are an imperative to restore confidence in corporate America. Those standards should, in his words, ''be enforced by strict laws and upheld by responsible business leaders'' and that ''corporations should not be disconnected from the values of our country.''

I also support the President's executive order to create the Corporate Fraud Task Force. Combined with new criminal penalties for corporate fraud, this taskforce can help bring stability to our Nation's economy. The President has also asked the Securities and Exchange Commission to adopt new rules to make sure that auditors are truly independent from the businesses which they audit.

We also need to be sure the SEC has the resources it needs to carry out its other important responsibilities.

I am hopeful that the Appropriations Committee will be able to provide the necessary amount of funding for the SEC to hire the enforcement officers it needs and to acquire state-of-the-art technology that is necessary for the performance of its duties.

With the passage of this bill by the Senate, we will be able, in conference, to work with the other body to produce a good bill that deals effectively with the problems in this area of very legitimate concern to our country.

Mr. LEAHY. Mr. President, I want to compliment the majority leader for turning to the Sarbanes bill and the issue of corporate responsibility. I also want to thank Chairman SARBANES for his leadership on the impressive bill that he has produced in the Banking Committee.

So many times all that the public hears about Congress is about turf and partisanship. This comprehensive reform effort disproves those claims. Thanks to the leadership of the Majority Leader and Senator SARBANES, the bill that we are about to vote on is a tough, comprehensive reform package that enjoys broad bipartisan support in the Senate. It brought together the best ideas from many Senators, from many Committees, and from both parties.

From my standpoint, as Chairman of the Judiciary Committee, this has been an opportunity to benefit once again from the wonderful partnership that we have forged between the Banking Committee and the Judiciary Committee. After September 11, our two Committees worked together to write the anti terrorism provisions of the USA Patriot Act that dealt with money laundering. Here, with the 97–0 vote to adopt of the provisions of the Corporate and Criminal Fraud and Accountability Act, as a Leahy-McCain amendment to this bill, Senator SARBANES and I have again united the forces and expertise of our Committees. This time we have done so to craft comprehensive laws to deal with financial wrongdoing, and again done so with bipartisan support in both Committees. I think that the final product is better and more complete because of our joint work. Thank you Chairman SARBANES.

But the joint effort did not stop with Senator SARBANES and myself. Senators BIDEN, HATCH and the Minority Leader offered provisions that were also adopted by the Senate, adding aspects of the President's recent proposal. That is an impressive show of bipartisanship because those proposals were only made after the Senate had already begun debate on this bill. Despite the White House's refusal to help us shape our more comprehensive proposal, we did not hesitate to include the President's suggestions in our final product.

The bill was further perfected by Senator EDWARDS' thoughtful amendment dealing with the conduct of corporate attorneys. Once again, we were able to draw on the expertise of a particular Senator to enlist the help of lawyers in stopping corporate fraud, not designing it. In short, we started with a fine bill from Senator SARBANES, and have strengthened even further, never losing our strong bipartisan support.

We need to remind ourselves of the underlying reasons for the bipartisan support behind these measures. Enron brought it to light, but it goes deeper. It's about a basic fairness and equity that transcends party lines. It's about rewarding people who play by the rules and punishing people who don't. It's about the basic American ideal of treating all people equally under the law.

We cannot have a system where a pickpocket who steals $50 faces more jail time than a CEO who steals $50 million. The integrity of our financial system depends on accountability. The mounting scandals and declining stock market have damaged the integrity of our public markets and we must restore it.

I was proud that the Judiciary Committee, joined by the Majority Leader and a bipartisan group of Senators including Senator MCCAIN and others was able to make such an important contribution to this effort by contributing the provisions of S. 2010, the ''Corporate and Criminal Fraud Accountability Act,'' as it was unanimously reported out of the Judiciary Committee in April, as an amendment to the Sarbanes bill. Both in Committee in April and again last week on the floor, not a single Senator from either party has voted against the provisions of the Corporate and Criminal Fraud Accountability Act.

We worked hard to reach across party lines on this measure, and I hope that the House of Representatives acknowledges that fact. I was glad to see in last Friday's newspapers that Speaker HASTERT also endorsed the joint Sarbanes-Leahy measure after its adoption. I hope that the President can follow the leadership of Speaker HASTERT and support the Senate measure as this bill moves forward.

Recent events have served as a stark reminder that we need to reexamine our laws to make sure that they reflect our important and shared values of honesty and accountability. Enron has become a symbol for the torrent of corporate fraud scandals that have hit the front pages and battered our financial markets. Tyco, Xerox, WorldCom, Adelphia, Global Crossings, the list goes on.

The things that happened at Enron did not happen by mistake. They were not the result of one or two ''bad apples.'' Senior management at Enron, assisted by an army of accountants and lawyers spun an intricate web of deceit. They engaged in a systematic fraud that allowed them to secretly take hundreds of millions of dollars out of the company. This kind of fraud is not the work of a lone fraud artist. Rather, it is symptomatic of a corporate culture where greed has been inflated and honesty devalued.

Unfortunately, as I have said and as the experts warned at our February 6 hearing, Enron does not appear to have been alone. Each week we read of corporation after corporation that has engaged in misconduct, and these are not small or marginal corporations. These are major mainstays of corporate America. The web of deceit woven by such publicly traded companies ensnares and victimizes the entire investing public who depend on the transparency and integrity of our markets for everything from their retirement nest eggs to their children's college funds. That is why this comprehensive reform is urgently needed to restore accountability in our markets.

The Leahy-McCain amendment to the Sarbanes bill, approved 97–0 by the Senate, provided important provisions to ensure just such accountability.

The Corporate and Criminal Fraud Accountability Act which I authored provides tough new criminal penalties to restore accountability and transparency in our markets. It accomplishes this in three ways:

punishing criminals who commit fraud, preserving evidence to prove fraud, and protecting victims of fraud.

Here are some of its major provisions as adopted by the unanimous Judiciary Committee in April and the unanimous Senate last week: It establishes a new crime of securities fraud, with a tough ten year jail sentence. It breaks the ''corporate code of silence'' by providing, for the first time, federal protection for corporate whistleblowers who report fraud to the authorities or testify at trial. It closes loopholes and toughens penalties for shredding documents as we learned had occurred at Arthur Andersen. It requires audit documents to be preserved for 5 years and provides tough criminal penalties for their destruction. It protects victims the right to recoup their losses by preventing fraud artists from hiding in bankruptcy or concealing their crime and using an unfair statute of limitations to hide.

With these bipartisan provisions and others incorporated, this bill we have produced is truly a comprehensive measure. It tightens regulation of corporate misconduct, but it now also provides an important deterrent to fraud artists. This bill is going to send wrongdoers to jail and save documents from the shredder, which sends a powerful and clear message to potential corporate wrongdoers ''dont do it.'' As a former prosecutor, I have discovered that nothing focuses attention to morality like the prospect of a long prison sentence.

In the Senate, as we have been debating and shaping specific and comprehensive reform proposals, we had been trying for months unsuccessfully to get the President's support. The Administration had stayed on the sidelines during this important debate .

For whatever reason, perhaps the mounting scandals or the declining market, the President decided last week to speak out against corporate fraud. He spoke again today on our economy. I welcome his participation and hope that he will follow up his speeches by supporting real reform. It is amazing to me that with such broad bipartisan support and now on the verge of Senate passage, that the Administration has still not given a clear statement supporting the bill on which we are now about to vote.

Although I now understand that a White House official reportedly said that they agreed with the ''goals'' of this reform bill, I was disappointed that the President has not yet voiced his support for this bipartisan measure about to pass the Senate. Supporting the ''goals'' is a good first step but it is nonetheless a baby step. I read in the paper last week that the President does not want to ''tip his hand.'' This is not a game of poker, however. This is the time for Presidential leadership with the integrity of our markets at stake. When there are specific proposals passing the U.S. Senate by an overwhelming majority of Senators from both parties and the Speaker of the House is supporting the measures as well one wonders what it will take for the President to express his opinion.

For those of us in the Senate, like myself, Senator SARBANES, Senator MCCAIN, Majority Leader DASCHLE, and others who have worked hard to come up with specific and bipartisan reform proposals, the ''goals'' have been clear for a long time. It is now time for comprehensive action.

While the President's proposal was short on details, some of it did sound familiar to those of us on the Judiciary Committee. Three of the President's proposals are found in S. 2010, the Corporate and Criminal Fraud Accountability Act, which we adopted 97–0 in the Senate: One, The President advocates for strengthening the laws punishing document shredding and obstruction of justice. That is in our bill. Two, The President wants the Sentencing Commission to raise penalties for corporate misconduct. That is in our bill. Three, The President wants the Sentencing Commission to raise the penalties for the existing fraud laws. That is in our bill as well.

I am glad the President adopted three proposals from my bill, even if he will only say that he supports the '' goals.'' As I said, we were also quick to write up his ideas into concrete proposals and include them in our bill. Unfortunately, the President's proposal failed to include many of the important provisions in the bipartisan Leahy amendment. It fails to create a new crime to punish securities fraud to directly punish corporate wrongdoers. It fails to provide whistleblowers with protection that will break the corporate code of silence. Remember, you can put whatever criminal laws you want on the books but unless there are witnesses who are not scared to help prosecutors prove what happened no one will be held accountable. It fails to protect victims of fraud by allowing them to recover their losses from a fraud artist who declares bankruptcy. It fails to establish a realistic statute of limitations to allow victims to recoup their losses when a fraud artist can manage to conceal his crimes for long enough, a change that has received strong bipartisan support dating back to the SEC under former President Bush.

As I said, I was glad to hear the President finally join this reform debate. Now is not the time, though, for half measures. We need comprehensive action. We were glad to include the President's proposals in the Senate bill, but we unanimously agreed to more comprehensive reform, including the Leahy bill.

Now I hope that the President will support such comprehensive reform as is found in this bill. I hope that his rhetoric is backed by action and that his generalities are backed with specifics.

Speaker HASTERT has now publicly supported the Sarbanes bill and the Leahy amendment. I hope that the President will support the bill's provisions as it moves forward to conference and will appeal to other Republican House members not to water it down. That will be the true test of his resolve to restore accountability to our markets.

It is time for action, comprehensive action that will restore confidence and accountability in our public markets. The Sarbanes bill, including the unanimously approved Leahy-McCain amendment incorporating the Corporate and Criminal Fraud Accountability Act, provides just such action.

Let's pass this comprehensive bill and send the President a strong measure to sign into law. Congress must act to restore integrity in our capital markets to strengthen our economy.

Mr. REID. Madam President, I ask unanimous consent that at 5:45 p.m. today all time postcloture expire, and that all the time available, not counting the time available for Senator BYRD, be equally divided and controlled between the two managers or their designees; that without further intervening action, the Senate proceed to vote on or in relation to the Carnahan amendment No. 4286, to be immediately followed by a vote in relation to the Edwards amendment No. 4187, as amended, if amended; that upon disposition of these amendments, the bill be read a third time, and the Senate vote on passage of the bill; that upon passage, the Banking Committee be discharged from further consideration of H.R. 3763, the House companion, and that the Senate then proceed to its consideration; that all after the enacting clause be stricken and the text of S. 2673, as passed, 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 upon passage of H.R. 3763, 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; that all succeeding votes in this vote sequence, after the first vote, be limited to 10 minutes; that there be up to 2 minutes of explanation prior to each vote, with no further intervening action or debate, with the 2 minutes equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Madam President, reserving the right to object, I would like to propound a parliamentary inquiry. Under this agreement, when 5:45 comes, we would begin to vote on the two amendments, and then vote on final passage, and no other amendment would be in order under the agreement; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAMM. Madam President, I do not object. I think under this agreement we will have time to go back and forth. I would say that if it saves anyone time, we do not need a vote on the two pending amendments. We could do them by voice vote and proceed to final passage.

Mr. REID. We will be happy to discuss that after the UC is entered.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that upon disposition of H.R. 3763, passage of S. 2673 be vitiated and the bill be returned to the calendar.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I want to begin by very briefly responding to Senator KENNEDY. I was somewhat taken aback at his suggestion that we set aside the two amendments and allow a nongermane amendment to

be offered when, in fact, on a bipartisan basis, earlier this week, we decided not to deal with pension reform.

So I want to make it clear to my colleagues that I am perfectly happy to deal with pension reform. I think a bipartisan consensus is evolving on pension reform. But we made a decision, on a bipartisan basis, earlier this week, not to put pension reform on this bill. Its day will come. I want to make that clear.

Madam President, let me try to respond to several points that were made earlier today. I will try to be brief so that my other colleagues will have an opportunity to speak on my side of the aisle.

I want, first, to talk about stock options. Then I want to talk about the bill before us and where we go from here. And I will try to be brief on all of them.

First, let me make it clear that stock options are pretty important to the American economy. More than 6 million nonexecutive workers in America receive stock options every year. So when we finally get around to having a policy set on stock options—which I hope will be done by FASB, the accounting board, based on logic and reason—we need to take into account that 6 million people who are not executives of companies get stock options every year.

We want to be sure that we are not endangering their ability to own a piece of America with the reforms designed to deal with a few people who violated the law in some cases, who did not act honorably in some cases.

We want to be sure we do not deprive or preclude 6 million workers who are not executives—or people who did not violate the law, did not act dishonorably—from the ability to get stock options.

Let me also say, in areas such as biotechology and the computer programming industries, that 55 percent of rank and file employees get stock options.

So I just want to urge, as we are going about our business here, with all this talk about people who have made millions, that we do not forget that millions of Americans benefit from this, and we need to be careful about what we are doing.

Let me say, secondly—and Senator BENNETT made the point today; I made it last week—if you listen to what is being said in this debate, a big point is made of the fact that in 1994 we saw an explosion in the use of stock options and low-interest loans and other nonconventional forms of executive compensation.

What happened to trigger that is in 1993, as a gratuitous provision in the 1993 tax bill, we changed the law so that if you are compensating an executive in corporate America and you pay that executive more than $1 million a year, you cannot count that compensation as a business expense. Of the top 30 companies in America, the level of compensation at that point was already substantially above the million-dollar mark. So because of what Congress did in 1994, having passed a law that said you could not pay people with a paycheck above a certain level and have it count as a business expense, we should not have been surprised that accountants and financial planners and people who were smart enough to make over $1 million a year found other ways to receive compensation.

So I want to make it clear that the point I am making is, if you are looking for somebody to point the finger of blame at here—and many people are trying to do that—I think Congress is a good institution to point at because Congress eliminated the ability of companies to pay their executives the old-fashioned way.

A lot has been made about who is at fault in all this. I would just simply make the following points. If somebody said to me: I know you don't know what caused all these current problems, but tell me; I am going to force you to tell me what you think the cause was. I would say: The inadequacy of GAAP accounting, which, in its current incarnation, works very well for old-style companies with assets that are written off.

GAAP accounting fits the steel industry perfectly. It fits the automobile industry pretty well. But the problem in the 1990s—when productive power became knowledge, when companies with relatively little in the way of assets gained huge market caps because of people's assessment of their know-how and the technology embodied by the company—was that GAAP accounting did not keep pace with the reality of the world that we live in today and that we lived in the 1990s.

It is very complicated to try to figure out what the values of these companies actually are by any conventional method where you are adding up their acquisition cost of assets and depreciating those assets.

This created a giant void in GAAP accounting in the 1990s, and people pushed the envelope within that void. In some cases, it appears they violated the law; in other cases, they have certainly violated standards of ethics.

Nothing we are doing in this bill is going to solve the problem in GAAP accounting. I am confident that over time we will find new ways of developing generally accepted accounting principles that don't rely on concepts such as goodwill, which don't make a lot of sense economically. But I do believe the bill before us is a step in the right direction.

There are differences of opinion. Before we go to final passage, I want to make clear what those differences are. Senator SARBANES and I both believe that we should have an independent accounting board. We both believe that that board should set and enforce ethics standards. We both believe that part of setting ethics standards is looking at auditor independence.

Senator SARBANES believes that we should write in law in some great detail what is entailed in auditor independence. I believe the problem with that is that while the law might fit General Motors, there are 16,254 publicly traded companies in America, and I am concerned that there is no law that Congress can write that will fit all 16,254 companies.

My second problem is, if you make a mistake in writing the law, then you have to go back and pass another law to correct it. If we had set out Glass-Steagall, separating banking and securities, by regulation, my guess is that by the mid 1950s, we would have concluded that that was a mistake, and we would have fixed it. But since it was written into law, it couldn't be fixed by regulation. Regulators tried to make marginal changes. We ended up with a very unstable system, and we were only able to fix it by law in 1999.

A second problem with writing the details of these different standards such as auditor independence into law is if you make a mistake, it is hard to fix it; whereas if you set up a board and, based on their expertise, they set out a regulation, if they make a mistake, they can fix it.

My final point on setting these standards by law is, one size fits all never works. What we need is the flexibility for this board to set a standard and then determine, based on the circumstance of the individual company, what makes sense.

I intend to vote for the bill on final passage. There are probably 10 things in the bill I am opposed to. But we are going to conference with a House bill that is very different. I am confident that in conference we can write a bill that will be supported by both Houses of Congress and signed by the President. I think we can strengthen the bill where it needs to be strengthened. I think we can provide flexibility where it is needed to bring in reason and responsibility.

Our objective has to be to fix what is broken in American capital markets and do it while minimizing the cost we impose on businesses, investors, and workers that did not violate the law and did not act in a nonethical manner.

The sooner we can get to conference, the sooner we can write this bill and see the bill signed into law. We have reached the point where we have a bill before us that addresses the major issues that we decided to address.

I know people have been unhappy about the inability to offer amendments today. The plain truth is, we have 97 first-degree amendments that have been filed and 24 second-degree amendments, and there was never any possibility that those amendments could be offered. We tried to come up with amendments that were agreed to and in the process, ended up excluding some people.

Let me conclude my remarks, at least for the time being, by congratulating Senator SARBANES on his leadership on this bill. Overall, he has done a

good job. I do not agree with him on each and every part of it, but he has always been open. We have had many good discussions. I am confident that in the end we will write a bill that will be broadly supported and that will be in the interest of the country.

The PRESIDING OFFICER. Under the previous order, the hour of 4:55 having arrived, the Senator from West Virginia is recognized.

SUPPLEMENTAL BILL

Mr. BYRD. Madam President, there is a game being played with the critical issue of homeland security. It is a political game which could have disastrous consequences.

The White House is talking big about homeland security, exhibiting strong presidential interest in homeland security, trotting out proposals for a whole new Department of Homeland Security, and publicizing alerts.

It is strange, then, strange indeed that despite its public pronouncements on homeland security, the White House refuses to back the rhetoric up with resources.

Twice—once last year, and currently—large bipartisan majorities in both Houses of Congress have withstood veto threats from this administration and insisted on significant funding increases for homeland security.

President Bush's own appointees have all but begged the President's OMB Director for additional funds to fight the war on terrorism here at home. Many of these requests are urgent and quite compelling, yet the OMB has continually rejected a surprising number of these pleas. It is as if this administration has delivered an internal unfunded mandate to its own cabinet secretaries and Federal workers. Fight the war on terrorism on every front here in the homeland. Fight vigorously. Spare nothing, but make sure you do it on a shoestring. Protect our people here at home, but protect them on the cheap.

The Department of Energy proposed a total of $380 million to fund projects to enhance the security of radioactive materials here at home and overseas, including: better security measures to safeguard the transport of nuclear weapons within the United States; improvements in the ways in which we secure and store plutonium; cleaning up, transporting, and protecting low-level radioactive materials that could be used in a ''dirty bomb.''

For these and similar activities $380 million was asked for by the Secretary of Energy. But do you know what? That request fell on deaf ears at the Office of Management and Budget. Despite all of the worrying and nail biting about what would happen if some lunatic obtained radioactive material and detonated a ''dirty bomb'' on the mall in Washington or in some other large city, the OMB provided less than $27 million or about 7 percent of the Energy Department's request. Let me say that again: The OMB provided less than $27 million or about 7 percent of the Energy Department's request. This urgent supplemental bill contains $361 million for the Department to dedicate to securing these dangerous and vulnerable materials. That is $334 million above the amount requested by the President.

Another striking omission from the Bush supplemental request for homeland security involved efforts to deport those individuals who entered the country on visas that have now expired. Currently there are an estimated 8 million undocumented immigrants in the United States and only 2,000 interior immigration enforcement officers nationwide. This is a very dangerous situation. We know that terrorists live and plot their crimes among us. The Immigration and Naturalization Service requested $52 million for analysts to help find, arrest and deport high-risk individuals who have disregarded the departure dates on their visas.

OMB said no, nada, nix. It denied the entire request. The supplemental bill, now stuck in conference because of the administration's latest demands, contains $25 million that the Appropriations Committee believes the INS can usefully spend this year to address the need to locate some of these individuals. We also include $88 million for construction and equipping of border facilities, and for improved border inspections.

Last fall, OMB denied $1.5 billion in funding which the FBI requested in the wake of the attack on the twin towers in New York. Part of the FBI's funding request was for acceleration of a new computer system that will be at the heart of all communications within the bureau. Also included in the request were funds to enhance the internal security of the FBI's systems and procedures; for ''cyber cops'' and for hazardous materials personnel. The Congress provided $212 million above the President's request to permit completion of the new computer system much earlier than would be allowed under the Bush plan. In addition, we have included—the Appropriations Committee—$175 million for cyber security and counter terrorism in the supplemental that the White House is now delaying—delayed at the last minute last Thursday evening.

I could go on, but suffice it to say that this administration talks a good game about homeland security but it is unwilling to put its money where its mouth is.

Over this past weekend, during his radio address, the President said that, ''Strengthening our economy and protecting the homeland and fighting the war on terror are critical issues that demand prompt attention.'' I agree. I only wish that the same message would be made clear to the Office of Management and Budget.

We have worked diligently in the Congress to get these critical homeland security monies out to federal and local personnel charged with protecting our people. Yet, we have been met by objection after objection by this administration.

In March, the President insisted he needed more money for national defense in an urgent supplemental. We gave him every dollar he requested. In addition, the House and Senate provided more money for critical homeland defense needs.

Instead of letting the House and Senate work out our differences and get the funding out, the White House started issuing veto threats before the Senate bill was even off of the floor. And last Thursday evening, just as all differences appeared to be worked out, the White House bomb throwers blew up the agreement with new demands.

It makes one wonder how much the White House really needs that defense money and it certainly causes one to wonder how serious this administration really is about homeland security.

Senator STEVENS and I have beseeched the White House over and over again to have the Homeland Security Director come before our Committee to tell us about the needs for Homeland Security. Our requests were denied. We held days of hearings with administration officials, local firefighters, policemen, mayors and governors. We did our best and funded the needs as testimony we heard indicated.

We wrote a good bill, and we were ready to convene the conference Friday. But our efforts were blown up by the OMB Director, suddenly and completely and with no warning until the very last minute, Thursday evening.

So needs go wanting in our military and in our homeland defense effort. There is no excuse for such irresponsibility. Such tactics are not in the best interests of our people. Hollow rhetoric on homeland security will never replace solid funding for these needs.

Political gamesmanship over issues so critical to our Nation and our people is irresponsible, arrogant and totally out of line.

I deplore the arrogance with which the good faith efforts of both Houses of Congress have been treated by this White House. Apparently the security and safety of this nation and its people have taken a back seat to gamesmanship by a White House that has no respect for the people's representatives or for the people's urgent needs.

Under OMB Director Mitch Daniels' stewardship, the Federal budget has gone from a surplus of $127 billion in FY 2001 to an estimated deficit for the current fiscal year of $165 billion. This is a swing of $292 billion in just one year.

The President is now threatening to veto the urgent national defense and homeland defense supplemental appropriations bill based on Mr. Daniels recommendation. Why? Because Mr. Daniels asserts that the bill spends too much money. Yet the conference report's spending levels that have been

agreed to on a bipartisan and bicameral basis would increase the deficit by only about $600 million compared to the President's request.

Mr. Daniels believes that the critical port security, border security, firefighting, law enforcement, nuclear security and other homeland defense programs funded in the supplemental can wait because the bill would increase the deficit by about $600 million, when his failed fiscal policy has resulted in a $292 billion swing in the deficit.

The OMB Director seems to have forgotten, or perhaps never learned, that the appropriations process is about more than just numbers. Maybe at OMB, they can be bean counters, but here in Congress we are responsible for understanding what the numbers mean for the American people.

Mr. Daniels is cynically focused only on the bottom line. In an effort to make the supplemental bill look smaller, he has proposed rescinding the balance of funds under the airline loan guarantee program. He asserts that this would produce $1.1 billion of savings. Yet these funds under the law can not be spent. There are no real savings here. The Congressional Budget Office would not score savings for this proposal. This is the kind of phony accounting that is getting our nation's corporations in trouble.

This phony accounting is proof that Mr. Daniels does not care about homeland defense or about our national defense, or about fiscal discipline. This phony accounting proves that the President's veto threat is only about proving that he can force the Congress to hit some arbitrary bottom line. And the unmitigated gall of a high White House official coming to the Congress with an accounting gimmick at a time when that same White House is decrying phony accounting practices and scandals in the business community is beyond belief.

We should not delay this conference one more day. There are some in Congress who suggest that we should throw our hands up on this bill and wait until the next fiscal year to address these priorities. Such statements ignore the critical needs facing the nation for defense and homeland security. Our fighting men and women need this money to prosecute the war on terrorism. Dr. Dov Zakheim—the Defense Department comptroller—said in a briefing on Friday that the Defense Department is hitting a wall and that our people in uniform cannot be paid if the Supplemental Bill is not enacted by the August break. He said in that briefing that there is good will on Capitol Hill, and he is right. We are trying to do the right thing for our people here at home and our fighting men and women in the field. It is deplorable that good will, hard work, and good intentions can be trashed by OMB Director with reckless abandon. I do not think this President or this nation are well-served by tactics and gamesmanship when the stakes are so high.

Mr. President, I ask unanimous consent that a memorandum be printed in the RECORD which sets forth the highlights of the $7.2 billion for homeland defense in conference funding levels.

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

HIGHLIGHTS OF $7.2 BILLION FOR HOMELAND DEFENSE IN CONFERENCE FUNDING LEVELS

The tentative conference funding levels are $1.9 billion above the President's request. A summary of the $1.9 billion increase with examples of changes to the President's homeland defense proposal follows:

$701 million for first responder programs, $343 million above the President's request, including:

$150 million for firefighters, with the funds going directly to the local firefighters. The President did not request supplemental funds despite the fact that over $3.0 billion in applications from 18,000 fire departments were received for the $360 million currently available.

$100 million for State and local governments for improving interoperability of communications equipment for fire, police and emergency medical technicians, none of which was requested. The funding flows through existing FEMA and Justice program, rather than the new, centralized program at FEMA, proposed by the President for FY 2003. In addition, we are directing the National Institute of Standards and Technology to take the lead in developing uniform standards for interoperable State and local law enforcement, firefighting and emergency medical communications equipment.

$151 million for the Justice Department, $151 million above the President's request to give to State and local governments for improved training and equipment for law enforcement personnel (rather than through FEMA). Funds would also be used to improve the processing of security clearances for state and local first responders so that State and local governments can have information on potential security risks and to promote mutual aid agreements to coordinate the response of State and local governments to a terrorist attack.

$193 million, $134 million below the request for FEMA grants to State and local governments to update their emergency operations plans and to improve State emergency operations centers. $25 million is approved for a new, unauthorized program requested by the President, $25 million below the request. The proposal establishes a Citizen Corps within FEMA to promote volunteer service for emergency preparedness.

$54 million, $22 million above the President's request for FEMA's search and rescue teams. Currently, there are 28 FEMA search and rescue teams around the country that can be deployed to major disasters to assist local first responders in search and rescue operations. Funding will be used to upgrade equipment and training for responding to events involving a biological, chemical or radiation attack.

$37.1 million of unrequested funding for the National Institute of Standards and Technology for developing uniform guidelines for chemical, biological and radiation detection equipment ($17.1 million) and for developing best practice guidance for homeland security technologies ($20 million).

$15.9 million for the Federal Law Enforcement Training Center to expand training capacity for law enforcement personnel of the new Transportation Security Administration.

$739 million for port security programs, $465 million above the President's request, including:

$125 million for port security grants through the Transportation Security Administration. Last Fall, Congress approved $93 million of unrequested funds for port security grants. DOT received $692 million of applications for the $93 million we provided. Despite this, the President did not request additional funds.

$528 million for the Coast Guard for port and maritime security, $273 million above the President's request. Increased funds would be used to: expedite vulnerability assessments at our nation's ports, rather than follow the Administration's current plan to do the assessments over the next five years; add two new maritime safety and security teams; purchase a total of six homeland security response boats; and expand aviation assets as well as the shore facilities to support them.

$39 million for Customs to target and inspect suspect shipping containers at overseas ports before they reach U.S. ports. The Administration requested no funds for this activity.

$19.3 million, as requested for 34 additional personnel for improved background checks for truck drivers, for improved fraud detection for truck licensing and for improved fraud detection for driver's licenses.

$28 million of unrequested funding for the Safe Commerce program to develop better procedures for securing the contents of the 6 million containers that enter U.S. ports each year.

$251 million for bioterrorism funding, $251 million above the President's request, including:

$251 million for the Centers for Disease Control for improved and secure facilities, including toxicology and infectious disease labs, an emergency operations center and for information technology security.

$235 million, $209 million above the President's request to improve security at our nuclear weapons facilities (Energy requested the funds, but the White House did not request them). Funding would be used to improve security of the nuclear weapons stockpile, the national nuclear labs and our nuclear weapons plants. Funds are included to establish a 911 system for local first responders to call when confronted with nuclear hazzards, enhanced funding for the National Center for Combating Terrorism, expansion of radiological search teams, and establishment of a National Capital Area Response Team at Andrews Air Force Base. Funds would also be used to consolidate nuclear materials sites so fewer locations need to be protected. Several requested items that are approved include funds to improve security on the electrical grid and funds to improve our capability to detect radiation.

$147 million, $128 million above the President's request for cyber security to help deal with the threat to Federal and private information systems. $82.6 million is provided to Justice to improve the investigation and prosecution of cyber crime, research to improve the detection of cyber crime, ''data warehousing'' and ''data mining'' to help expose cyber crime and for information sharing. $20 million is provided to Commerce to develop unified Federal guidelines and procedures for system security certification and to develop guidelines and benchmarks for secure information systems. Funding is also provided to improve wireless intrusion detection systems. $25 million is provided to the Energy Department to improve cyber security at our nuclear weapons plants and labs. $19.3 million, as requested, is included for NSF for scholarships to develop cyber security skills.

$120 million for border security, $78 million more than requested by the President, including $32 million for Immigration and Naturalization Service Construction to improve

facilities on our nation's borders, $25 million for better equipment for the additional personnel that are being hired with the funds Congress provided at Fall and $5.7 million for the Justice Department to deploy to 30 more ports the IDENT/IAFIS system for rapid response criminal background checks by the INS of suspect aliens prior to their admission into the country. $57 million for INS for identifying and removing immigration felons from the country and for information technology enhancements.

$140 million of unrequested funding for the Department of Agriculture to enhance our nation's food safety capabilities and to protect against devastating plant and animal disease; to increase support for the Food Safety and Inspection Service, especially to ensure the safety of imported products; for improved security at USDA labs in order to secure bio-hazardous materials; funding for the Extension Service to provide emergency training for first response in rural areas; for FDA to improve the ability to inspect imported products such as medical devices that contain or are susceptible to being contaminated with radiation; and for vulnerability assessments and security improvements to protect rural water systems.

471 million of unrequested funding for airport security, including $150 million to insure that all small and medium hub airports have all of the funds necessary to implement the FAA's new airport security guidelines and that large airports have some additional funding to meet those requirements; $225 million is provided above the President's request for explosives detection equipment; $42 million is provided to improve the security of the FAA air traffic control system; $17 million is provided to improve airport terminal security for our nation's airports; and $7.5 million is provided to FAA to repair long range radar systems that the Department of Defense believe must be continued for several years because these assets are the only FAA radar capable of continually tracking aircraft with disabled transponders. In addition, $15 million is provided for improved air to ground communications for the air marshals, $4 million for radiation detection equipment for air cargo and $10 million is included for improved technology for air cargo safety and other cargo modes.

$100 million for unrequested nuclear nonproliferation programs. The best opportunity to stop a potential ''dirty'' bomb is to minimize the opportunity for terrorists to get their hands on nuclear material. Funds are included to protect fissile material abroad, purchase radiation detectors and to establish international standards for securing fissile material.

$108 million of unrequested funding for the Corps of Engineers to improve security at Corps water projects.

$92 million, $82 million above the President's request for the FBI for counter terrorism and information technology enhancements. In total, FBI receives $175 million when cyber security funding is included.

$50 million of unrequested funds for EPA to provide funds to local governments to conduct vulnerability assessments on our drinking water systems.

Examples of the remaining $273 million, most of which was unrequested include: $12 million for security at the Smithsonian; $17.7 million for the National Park Service for installation of bollards at the Jefferson Memorial and an in-ground retaining wall at the Washington Monument (requested by the President in FY 2003); $26 million for the US Geological Survey for high resolution mapping and imagery of the nation's major cities for use in developing vulnerability assessments of infrastructure and for expanded data storage capacity; $28.5 million to expand Secret Service capacity to combat electronic crimes; $23.6 million for the Legislative branch for Capitol Police and for the Library of Congress to cover part of the lost copyright fees from the slowed mail and for costs associated with cleaning up the Hart building after the anthrax attack; $19 million to improve response capacity to chemical attacks and for research on the impact of the release of toxic substances at the World Trade Center; $15 million for improved bus safety; $7.2 million for NOAA to develop back-up capacity for the supercomputers that support our weather forecasting system; $17 million for security and renovations of the Federal courts, $3 million above the request; and $44 million for the District of Columbia and the Washington Metro to improve security; consistent with the congressionally-mandated District emergency operations plan and FEMA's emergency plan for the National Capital Region, and to construct decontamination and quarantine facilities at Children's Hospital and the Washington Hospital Center.

The conference funding levels include $4.1 billion for the new Transportation Security Administration, $331 million below the request ($439 million of which is for unrequested items highlighted under port security and airport security).

The conference funding levels also include the $87 million President's Budget request for the Postal Service to improve protection of postal customers and postal employees from a bioterrorist attack, the $52 million President's Budget request for improved security of Federal buildings and $3.8 million for the Office of Homeland Security, $1.2 million below the President's request.

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

The PRESIDING OFFICER (Mr. CARPER). The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I yield 10 minutes to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I thank the chairman of the committee. Let me begin by stating that which I have said on several occasions: We are all deeply indebted to the Senator from Maryland for the tremendous work he has done as the chairman of the Banking Committee in fashioning this legislation. He has worked with many of us to put this bill together. My guess is that, within an hour or so, we will overwhelmingly pass this bill before us. The chairman will be largely responsible for the result.

I also commend my colleague from Wyoming, Senator ENZI, and others who have worked very hard and have made it a bipartisan bill. Without his leadership, I don't think that would have happened. We may have had a partisan vote coming out of committee. That would not have bode well for the handling of this matter on the floor. So I commend him and others for reaching an accommodation that made this a strong, good bill.

Mr. President, I want to take a few minutes toward the close of this debate to urge our colleagues to be supportive of this bill, and I hope Members of the other body will support what we have done in the Senate.

The House passed legislation a number of weeks ago, prior to a lot of the events that have unfolded over the last 2 or 3 weeks. The argument today for a stronger Senate bill hardly needs to be made in light of events that occurred over the past number of days. Just today, the Dow is down some 40 points; Nasdaq is even. But over the last week, we have seen a continued decline in investor confidence and, of course, how that is reflected in the stock markets.

Investors, both domestic and foreign, are losing confidence in our financial markets. Investor trust is contagious. I also point out the corollary to that: Investor mistrust is also contagious. What we are watching is an erosion of trust that has begun and is almost impossible to stop once it gets rolling. Obviously, a lot of factors will contribute to stemming this tide of continued erosion of investor trust and confidence.

One of the things we can do is what we are doing today. Other people will have to add their voices to the debate. In my view, the President still has to be stronger than he has been. The House will have to rise to the occasion as we have endorsed in large measure what we have accomplished here, but our step, the first step, is the one we are taking this afternoon. Therefore, I think this is critically important.

This is not just another bill we are passing. This is far more important. In fact, the impact of how people react may be more important than the actual wording and language of the bill. It is critically important we have as strong a vote as possible.

If we fail to enact serious reforms—and this bill is serious reform—then I believe we endorse dangerous and discredited accounting practices that we have seen in the last 7 months alone cost shareholders and workers billions of dollars in their savings and pensions.

The Nasdaq has fallen over 37 percent, and the Dow has fallen 17 percent since the beginning of the year. Both Nasdaq and the Dow have dropped over 10 percent each in the past week alone. So Congress must act today, Mr. President, and act with a very strong voice to stem the rising tide of investor apprehension.

Passage of this bill will not and cannot of itself restore investor confidence. More must be done to win back consumer faith, but this bill is a critical piece of the overall effort and, therefore, it is essentially important we adopt it.

The part of the rationale of the original securities law in the 1930s was to increase public trust in America's financial markets and reliability of disclosed corporate financial information. Those laws over the past 70-plus years were a part of the modern economic foundation of our Nation, and they were designed to promote market efficiency and inspire investor confidence.

The resulting market confidence in the statements of financial health of publicly traded companies has paved

the way for America's rise as an economic superpower.

I could make a strong case that the vote we are going to take today is for one of the most important bills impacting the Nation's financial markets since the 1930s. I say that because this legislation will fundamentally change the way publicly traded companies will do business and how the accounting profession performs its statutorily required audit function.

Much has been said about what this legislation does not accomplish. Briefly, I wish to focus my remarks on what it does do and repeat, we are not solving every problem with this bill. There are a lot of other issues that need to be addressed, but we have to begin the process, it seems to me, by getting the accounting part of this equation right, and we will not know ultimately whether we have done all we could, but I think this is a major step in that direction.

The bill, we now know, creates a new independent regulator for the accounting profession. The new body will act as a strong, independent, full-time board with significant authority to regulate auditors of public companies. The independent board will have clear authority for setting auditor standards and important investigative standards. It strengthens audit reporting standards for the accounting profession and contains significant prohibitions for accountants performing nonaudit services for audit clients, and it addresses the growing conflicts of interest that have been too pervasive throughout the accounting profession.

It provides for the first time an independent funding source for the Financial Standards Accounting Board, which I think is also extremely important and one of the major reforms in this bill.

There are additional dollars to provide the SEC with more firepower, if you will, to have more cops on the street so we might avoid some of the problems that have occurred in the past.

It also improves corporate governance requirements and improves corporate disclosures. The bill grants additional authority and responsibility to the audit committees of publicly traded companies.

Those are very important steps. The provisions contained in the legislation were carefully considered. We had 10 hearings, and by a vote of 17 to 4, the committee—the Presiding Officer being one—passed out this very fine legislation.

Additionally, during floor consideration of this bill, Senator LEAHY of Vermont added new criminal penalties for securities fraud. I commend him and strongly endorse the provision that won the overwhelming support of the Members. I hope it will add to our efforts of restoring investor confidence.

One of the last issues I would like to address, because it has been talked about so much, is the stock options issue, which involved a lot of debate and discussion of the last number of days. I commend our colleague from Michigan, Senator LEVIN, who has made an extraordinary effort to find a resolution to this issue we all can support. Obviously, this question inspires more questions than answers in many ways, but I commend him for his thoughtfulness and energy that he has brought to this debate.

The issue of whether or not stock options should be expensed is not an issue that is going to go away. It has to be addressed. I must admit, I am swayed by those who have a great deal of expertise in this area: Alan Greenspan, Warren Buffett, Paul Volcker, all of whom support the expensing of stock options.

I also recognize the danger when Congress begins the process of legislating accounting standards.

My friend from Texas and I have been involved in the past when there have been efforts by people who wanted to have us vote on some of these matters. I recall 3 or 4 years ago the debate was over pooling and purchasing accounting standards. I was very sympathetic to the arguments made by those advocating pooling. Certainly, if I were a member of FASB, I think I would have voted to allow that accounting standard to go forward, but the idea that the Senate might vote by 51 to 49 to pick one accounting standard over another is just ludicrous on its face. We do not want to set a precedent, in my view, of the Congress of the United States deciding what accounting practices ought to be. That is why we set up these boards to do the job.

The approach taken by having the Accounting Standards Board, the SEC, and others look at these matters and get back to us with their recommendations is the appropriate and proper way to go. Despite the temptation of others to want to legislate these matters explicitly on the floor, I remind my colleagues who have done that in the past, we inevitably regret doing it when we set precedents such as those and are only duplicated by other ideas that temporarily may be very popular, may be politically attractive, but may be terrible economics as well.

I applaud the effort to approach the stock option issue in the manner in which it has been addressed. I mentioned Senator ENZI. I mentioned my colleague from Texas as well. He and I worked many years on a lot of matters affecting the financial services sector of our economy. He does not have that many days left with us, and I am going to miss him. I told him that privately, and I tell him publicly that he is a valued Member of this institution. Whether we agree or disagree on matters he always brings a great deal of thought to the debate. He has been a fine member of the Banking Committee, and I have enjoyed my service with him for many years. I do not want to be too complimentary. I will reserve any final glowing accolades for when we have completed the process. We have a conference to go through yet.

Again, my compliments to Senator SARBANES.

What we are doing is important. This is extremely important legislation. I said earlier it may be more important what message it is we are sending; that we are not sitting in the bleachers, we are not just standing by as these events unfold. All Members of this Chamber can take great pride that the Senate of the United States has responded with a responsible bill we think is going to make a difference. I yield the floor.

Mr. SARBANES. What is the time situation?

The PRESIDING OFFICER. The Senator from Maryland controls almost 14 minutes, and the Senator from Texas controls just under 12 minutes.

Mr. SARBANES. I yield 4 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 4 minutes.

Mrs. CARNAHAN. Mr. President, my amendment requires that when corporate insiders, such as CEOs, trade the stock of the companies they manage, they must take reasonable steps to disclose those transactions to their shareholders. Current law requires that insiders file disclosure forms with the Securities and Exchange Commission. However, almost all of these forms are filed on paper and average investors have no practical way of seeing these disclosures. My amendment requires that these disclosure forms be filed electronically and that the SEC make these disclosures available to the public over the Internet.

This amendment also requires that corporations disclose insider transactions on their own Web sites. Investors have a right to know if corporate officers are dumping their stock. However, it is meaningless to require these disclosures if investors have no practical way of ever seeing these disclosures. Without this amendment, the disclosure forms simply sit in a file cabinet at the SEC in Washington. My amendment ensures that investors have access to this important information.

In the 3 years leading up to its bankruptcy, as Enron's top officers touted the company's stock, they sold more than $1.1 billion worth of their own holdings. Ken Lay alone sold more than $100 million worth of Enron stock while telling others to buy it. Enron's vice president of human resources, Cindy Olsen, was asked by employees if they should invest 100 percent of their retirement funds in Enron. She replied: ''Absolutely.'' But within 3 months she personally unloaded $1 million worth of Enron stock. Had Enron employees only known, they might have been skeptical about this advice.

Investors are entitled to know how executives are acting with their own shares of their company's stock, and my amendment will ensure they will.

I yield my remaining time back to the Senator from Maryland.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I yield 8 minutes to Senator ENZI, and might I say on my time, not his 8 minutes, that I want to thank Senator ENZI for his contribution to this bill, for his work from beginning to end. He has been a major contributor to the bill. He has proven that knowledge sometimes is a nice thing to have.

Our standard in Washington for objectivity is that you came in off the turnip truck and you know absolutely nothing and therefore you are objective, but I would say that Senator ENZI proves that it is nice every once in awhile to have somebody who knows what he is talking about. I think in many ways, large and small, the good things in this bill he has had a very positive impact on and the bad things in the bill he could not do anything about anyway—that was a joke, I would say to the Senator from Maryland.

In any case, I do want to congratulate Senator ENZI for all the contributions he has made.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 8 minutes.

Mr. ENZI. I thank the Senator from Texas for his gracious comments.

It has been mentioned several times today that there is nervousness in the stock market. There has been since we started debating this issue. I am very convinced that some of that is because people may read some of the amendments that have been suggested and recognize the legislative principle that, if it is worth reacting to, it is worth overreacting to. That ought to be enough to scare anybody.

We have had extensive debate. In fact, one reporter I talked to asked me if we were going to pass the McCain bill. The reporter talked about the accounting reform, and I had to say, no, that is the Sarbanes bill we have been working on. It is not stock options, in spite of the threat we had the other day.

We usually do bills the way we have done this one—with a lot of cooperative talk. We then make arrangements to develop the best possible outcome. The accounting reform bill before us is designed in such a way that we set up processes that people with accountability and responsibility and knowledge have to oversee. This bill does not tell them exactly how to do the details of accounting. It gives a fair process for accountants to be able to do the details of accounting.

In past years, we have decided we knew more than the people who had the expertise in the area of accounting and we have given them direction on how to do it. We almost made that mistake again. For instance, the McCain amendment was very simplistic. In one paragraph it told people how to do accounting that may actually take about 500 pages to explain. It would have caused the most massive restatements in the history of the United States, and restatements right now make everybody nervous. People ought to realize that some restatements are caused by changes in rules, not by people doing things wrong. So investors should always review restatements and determine the actual cause. I certainly hope it is never Congress, but I suspect it very well could be.

Another proposal that was going to be put before us was one telling FASB, this Financial Accounting Standards Board, exactly what they were supposed to examine next and what they were supposed to resolve in the next year. I have to say, FASB is working on some important things because they have been examining what Congress has been debating and they know in greater detail than we do what caused the massive restatements. I have to say, I do not believe it was stock options. It was likely a number of other things that need to be investigated.

This Financial Accounting Standards Board is diligently looking at these issues. They are looking at some high-profile rules in the areas of accounting for intangibles and accounting for special purpose entities. We have talked a lot about special purpose entities, and our hearings showed that they may have been a cause for the Enron collapse. Also, they are looking at accounting for guarantees and examining a final rule on liabilities and equity. They are also studying whether to create a rule on revenue recognition.

Those five things probably put one to sleep, but they are important to have resolved to make sure we do not have problems with companies in the future. We have to be careful now and in the days to follow that we ensure we use all of FASB's expertise, knowledge, and staff to resolve high publicity problems of accounting.

In this bill, we have made the Financial Accounting Standards Board more independent. We have provided them with independent funding so they no longer must beg for donations and perhaps encounter a conflict of interest. Through this process, we should not insert ourselves and say we are going to tell them exactly what is important.

I would like to thank Senator SARBANES and Senator GRAMM for the extraordinary work they have put into the process. Last week was an extremely difficult week. I thank them for the careful work and review they have done on every single one of the amendments that has been submitted, and the process they established to make sure this bill would not get out of hand, that it would not be an overreaction, and that when we finish it tonight and we can reassure America it is still okay to invest in the stock market.

We are fortunate on the Banking Committee to have these two people I consider to be the finest public servants in Congress. They have worked long and hard to assure that the product that came out was bipartisan and reflected the views of as many Members as possible. I also thank the members of the staff who worked diligently on the bill.

From my own staff, Katherine McGuire, Kristi Sansonetti, and Michael Thompson. From Senator GRAMM's staff, Wayne Abernathy, Linda Lord, Stacie Thomas, and Michele Jackson. And from Chairman SARBANES' staff, Steve Harris, Steve Kroll, Dean Shahinian, Marty Gruenberg, and Lindsey Graham and Vince Meehan. All of these staffers have spent many late nights and weekends working to build this legislation.

This legislation is badly needed. The markets have been in a steady decline for several months now. While I do not believe it is Washington's job to step in every time the market is in a decline, I do believe that when markets move as a reaction to illegal or unethical acts, then we have obviously not made penalties severe enough to dissuade this type of behavior. Congress had to act in this climate.

However, I would also like to comment on a few things happening outside of the real debate—namely the attacks on SEC Chairman Harvey Pitt. I have to say that Chairman Pitt and I may not always agree, but I believe the recent attacks on him to be unwarranted. Mr. Pitt has come under fire for having represented some of the accounting firms who have been criticized in recent restatements. I believe Chairman Pitt's work in the private sector is a great asset to investors. We need individuals who are willing to work in government who know and understand the industries they regulate. I do not want lifelong government bureaucrats monitoring these companies.

These restatements did not all of a sudden appear when Chairman Pitt was confirmed. In most cases, they begun during the late 1990s when companies became intent on not seeing the Internet bubble burst. I have to ask what was going on at the SEC while these companies were filling all of these false financial statements? What I imagine happened was that the companies, who are very familiar with who is at the Commission and where the resources are being devoted, thought they could take advantage of the situation because no one was paying attention.

Look at what has happened since Chairman Pitt has taken office. He has opened a record number of investigations of restatements filed by public companies. He has taken steps to break the relationship between research analysts and investment bankers. He has supported legislation that will increase penalties on corporate executives engaged in fraudulent behavior. And, he has indicated his support of this legislation, which by the way, I anticipate to be supported by the majority of the Senate later today.

The numbers are clear. In Chairman Levitt's last year as Chairman, 503 total enforcement actions were filed. Already this year, Chairman Pitt has

filed 415. Officer and Director Bars for 2000 were 38—this year so far 71. Subpoenaed enforcement proceedings in 2000 were 9—this year 18. The numbers go on and on. My point is that Chairman Pitt seems to be left cleaning up the mess his predecessor left in corporate America.

I offer my support for these actions taken by Chairman Pitt. Instead of attacking him, I am more concerned about what was happening at the SEC that bred this climate where executives felt compelled to engage in this unethical behavior. Why weren't some of these actions taken three or four years ago? Did the SEC Chairman not see the potential conflicts that could arise out of research analysts getting compensation based on investment banking business?

Therefore, I would say that I commend Chairman Pitt for the work he is doing. From what I understand, the actions he is taking at the SEC have struck fear throughout the corporate community that they had better get their act together.

This legislation before us now will also go far in restoring faith in the markets. It will provide assurances to investors that we will not sit by and watch executives shatter the retirement dreams of workers while leaving themselves with millions of dollars. It will show the American people that we will work to make financial statements transparent and accurate to make sure they know as much about the company's financial state as possible.

The legislation builds an accounting oversight board to oversee the accountants who prepare financial statements of public companies. This board will have broad authority to enforce and discipline rules by which accountants must live. The board will have full access to accounting firms' records and policies to require uniformity throughout the industry when it comes to ethics and independence. Accountants must know that someone is watching over them to require that their work is in the best interest of investors. This legislation will also provide for the SEC to have the resources they need to enforce the law.

However, I also do not want this legislation to provide a payday for the trial lawyers. The competitiveness of the accounting industry is at stake and we can ill afford to lose another firm solely because we didn't offer proper protections in this legislation. I am in no way indicating that accounting firms should have new, special protections. The only thing I am asking is that accounting firms aren't exposed to more liability after this bill is enacted than they were before.

I am not sure some Members truly understand the situation facing accounting firms. We are down to the final four firms. These are the only firms that have the expertise and resources to audit companies such as Microsoft, Coca Cola, and the thousands other large companies. If we subject them to the will of the trial bar, it will only be a matter of time before we lose the rest of the firms one by one.

I know that, given what has happened recently with the restatements, it is easy to be critical of accountants and easy to legislate them. I agree we do need legislation, but what also needs to be understood is that overlegislating could be drastic to the economy. In the long run, if we overlegislate, it could be detrimental for the future of capital formation in this country.

Once again, I thank the Chairman for all of the work he and his staff have done with this legislation. I think it is a good bill, and I do intend to support it. I also think it will continue to improve through the Conference process and when all is said and done, investors will respond positively to passage of this legislation.

I wish to speak about the Financial Accounting Standards Boards, known as FASB, which has been referenced many times throughout the course of discussion on the underlying accounting bill, the Public Company Accounting Reform and Investor Protection Act of 2002.

Some of the pending amendments have referenced FASB and directed or mandated it to change how companies must expense stock options or to perform a study on how to expense stock options. In addition, the McCain amendment sets the accounting standard for expensing stock options, without allowing FASB to set rules on this form of expensing. The Levin amendment mandates FASB conduct a one-year study on expensing stock options, and then adopt a rule based on a narrow set of external parameters. The Levin amendment implicates a desire to have such expensing done.

In order to understand some of the problems with these types of amendments, it is important to understand exactly what FASB does. Since 1973, FASB has been the designated organization in the private sector for establishing standard of financial accounting and reporting. In short, those standards govern the preparation of all financial reports.

The mission of FASB is ''to establish and improve standards of financial accounting and reporting for the guidance and education of the public, including issuers, auditors and users of financial information.''

To accomplish this mission, FASB acts to improve the usefulness of financial reporting; keep standards current to reflect changes in the methods of doing business and the economic environment; consider any significant areas of deficiency in financial reporting; promote the international convergence of accounting standards together with improving the quality of financial reporting; and improve the common understanding of the nature and purposes of information contained in financial reports.

FASB follows certain precepts in its activities. One is to be objective in its decision making. Another is to carefully weigh the views of its constituents in developing concepts and standards. But its ultimate determination must be the Board's, based on research, public input and careful deliberation. It also aspires to promulgate standards only when the expected benefits exceed the perceived costs.

Overall, FASB was created to serve as an independent agency with an independent agenda. However, FASB is currently funded by companies and accounting firms. The long standing concern was that FASB did not act wholly independently, and succumbed to industry pressures in order to get the funding it needed to operate. Back in 1993 and 1994, when expensing of stock options was an issue, some critics say FASB succumbed to pressure by industry and Congress when it created a dual method of either expensing stock options at the time of grant, or placing the information in a footnote as a form of public disclosure of possible stock dilution.

The underlying accounting reform bill fixes this perceived problem of independence and autonomy by providing FASB with funding from both issuers and the accounting firms. Because of this change, FASB will be completely independent from the very companies it will set standards for in the future. This is a good start.

It is also important to understand that, historically, FASB has never been directed by Congress through legislation to adopt one particular standard for accounting, including expense accounting. It has also never been directed by Congress to perform a study. FASB's role is not to perform studies for Congress and they should not be bogged down performing them for political purposes.

Following that precedent, the Senate Banking Committee made certain nothing in the bill directs FASB to take any particular action. In other words, there is no federal mandate to FASB, nor should there be, if it is to remain an independent authority. In addition, why should Congress, a body without expertise in accounting standards for publically traded companies, set these standards?

I, and many other members, as well as Federal Reserve Chairman, Alan Greenspan, believe that Congress has no business setting accounting standards. Instead, the Securities and Exchange Commission and FASB are the entities with the expertise needed to make these types of determinations.

Ordinarily, FASB establishes plans with milestones it works towards. Congress should not dictate what plans and milestones it should work towards or address. FASB also never sets artificial deadlines on when to reach a conclusion. As an independent agency, it carefully and deliberately makes its determinations and sets rules, without adhering to outside pressures or timetables. Just as Congress should not set

accounting standards for FASB to follow, it also should not set artificial deadlines for FASB to adhere to either.

Nevertheless, some members have filed amendments asking FASB to not only take a specific action, but instructing it as to a specific timetable. One amendment actually sets an accounting standard, thereby instructing FASB to immediately change expensing standards. Another mandates FASB complete an expensing study within a year. These amendment set unrealistic timetables and mandates.

It is important to remember that FASB already has its hands full with important projects to help improve financial standards and reporting. It is currently working towards promulgating high profile rules in the areas of accounting for intangibles; accounting for special purpose entities; accounting for guarantees; and a final rule on liabilities and equity. FASB has also added to its agenda a project to research and create a rule on revenue recognition.

Let us not forget that the improper use of special purpose entities played a role in the downfall of Enron. Stock options had nothing to do with Enron's bankruptcy.

The projects FASB is concentrating on are important projects which will help clarify financial statements for investors. FASB itself needs to cue up and prioritize its projects based on what is more important to financial accounting and reporting. Congress should not dictate what those priorities should be or the timetable it must adhere to.

If some of the amendments we are looking at are accepted, Congress will establish a bad precedent of setting up a timetable and prioritizing projects for FASB. Congress will be putting stock option expensing—an accounting standard which did not cause the collapse of Enron or the demise of other big companies—at the front of the cue.

And another question we need to ask ourselves is whether FASB has the manpower to perform the mandates and timetables Congress would be providing through the McCain and Levin amendments. Already, FASB is shifting its personnel to different projects to try to timely promulgate needed rules. While the underlying accounting bill will help these staffing problems by providing independent funding, in the short term, FASB cannot possibly perform the mandates of some of the amendments within the time frames given.

I hope I have given members some solid reasoning on why Congress should not begin setting accounting standards. Should we really be doing something we do not fully understand? There are already agencies to perform this type of rulemaking, and they are the SEC and FASB. They are fully aware of the debate surrounding stock options. We don't need to mandate FASB to make a new rule. I am certain if FASB deems it appropriate, it will be looking at this issue in the future.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, I yield 4 minutes to the junior Senator from North Dakota.

Mr. DORGAN. Mr. President, in the final moments, I hope again to persuade my colleagues to accept by unanimous consent my amendment dealing with corporate bankruptcy. Let me again say what this amendment is.

It says that during the 12 months preceding a bankruptcy, CEOs who have received stock options, bonuses and other performance-based payments shall not be able to keep that kind of compensation. If they ride a company down to bankruptcy, they know the inside details of that company and got incentive-based compensation, including stock options, they ought not ride off in the sunset with a pocketful of gold while the employees and investors lose everything they have. That is not the right thing. A bankruptcy disgorgement proposal ought to be part of this bill. Everyone in this Chamber knows it should be part of this bill. Former SEC Chairman Breeden, a Republican, says it ought to be in this bill. I quoted other CEOs who say it should. Pass this bill without it and this bill is incomplete.

My colleague said he thought maybe the market, which has been so volatile recently, has been frightened by amendments that have been considered by Congress. I don't think so. I think the market has been volatile, up and down like a yo-yo, because we have story after story on the news in this country about financial crooks. These are crooks who have cooked the books of their corporations, cheated investors, pulled the rug out from under their employees, and ruined some good companies. They did it in broad daylight, under the nose of their accounting firms and law firms.

It seems to me those CEOs who made millions, in some cases over $100 million prior to bankruptcy, ought to give that money back. That money ought to go to help those who lost their live savings and those who lost their jobs.

We have in this bill a provision that says if there is a restatement of earnings, you have to give back some of these incentive-based compensation packages. However, the bill is silent on the issue of bankruptcy. What about top executives who ride their company right into the ground and run off with $50 million in their pockets and leave everyone else flat on their back? How about asking those executives to disgorge themselves of their ill-gotten gains? How about telling them in this legislation that they must give that money back? That is what my amendment would do.

I want to talk about the SEC, but I don't have time at the moment. I will save that for another day.

This process has been a travesty of the Senate, in my judgment, having someone as a gatekeeper and preventing us from bringing up germane amendments. It does not make sense. That is not the way the Senate is supposed to work.

I ask unanimous consent to lay aside the Edwards and Carnahan amendments so I may offer amendment 4214 on bankruptcy disgorgement.

Mr. GRAMM. I object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. How much time remains?

The PRESIDING OFFICER. Forty seconds.

Mr. DORGAN. Mr. President, this is, of course, the last chapter on amendments, and a pretty sad book. I know people will go up to the gallery—and I understand someone is at a press conference from the other side—claiming credit for this bill. I want to know who wants to run up to the press conference and claim credit for preventing an amendment that says you must disgorge ill-gotten gains, incentive-based compensation, if you ran a company into bankruptcy. I want somebody to go to the press gallery and take credit for blocking that kind of legislation. Tomorrow I want to read about it. Who takes credit? Someone ought to take credit for blocking an amendment that ought to be passed in the Senate by a 100 to zero vote.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I will not get into a debate with the Senator. There is nothing ill-gotten in this amendment. This amendment does not belong in this bill.

We have a provision in this bill. If you violate the law, then you have to give back what you have earned from the company in terms of any kind of incentive in bonus.

But to say that people who work for a company that goes bankrupt has to give back compensation is to guarantee that a company that is in trouble would never get anybody to go to work for them. They would never have an opportunity to be saved. That amendment does not belong in this bill. It makes no sense in the logic.

Mr. DORGAN. Will the Senator yield?

Mr. GRAMM. I will not yield.

If you did something wrong, making you give back what you earned belongs in this bill. And it is in this bill. Not only belongs, it is here.

But to simply say because somebody worked for a company that goes broke, that they have to give back compensation, that sounds great in the environment we are in, but, look, I have a company, we are in deep trouble, and we try to go out and hire a top-notch person to come in and save us, and we pay him a compensation to try to do it. To say we will take it back if he fails, as if that is an ill-gotten gain, I am sorry, I don't think that is good economic policy. I don't think it is smart. It has nothing to do with the provisions of this bill.

Mr. DORGAN. Mr. President, perhaps the Senator from Texas would like a explanation.

Mr. SARBANES. I yield 1 minute.

Mr. DORGAN. I deeply appreciate the Senator from Maryland yielding.

What the Senator from Texas misses is we are talking about incentive-based compensation. Should someone who gets incentives for running the corporation into bankruptcy be able to keep that? I don't think so for somebody that gets a big bonus while he runs the company into bankruptcy, or for someone that gets big stock options while she runs the company into bankruptcy.

The Senator tried to win a debate we were not having. He says we will take compensation away from someone who is engaged in working for a corporation that went into bankruptcy. No, this is about incentive-based compensation and profits. It is not about taking away their salary. It is about saying if you are paid on an incentive basis and you are running that corporation into bankruptcy, you ought not to be getting the bonus. If you did, you ought to give it back. You ought not get stock options; if you did, you ought to give it back.

This is simply about something my friend has missed. It is about incentive-compensation and the fact that you ought not walk out of a corporation you ran into bankruptcy with a pocketful of gold while you left the employees and the investors flat on their back. This is not an amendment that is hard to understand.

I regret very much it has been blocked. I regret especially we were not allowed to vote on this amendment. That is the travesty, in my judgment.

Mr. GRAMM. Mr. President, I think you could debate whether the amendment is understood or not. I think I understand it perfectly. In fact, there are people in this country who are turnaround specialists, who are hired to try to save companies. If somebody did something wrong, if they violated the law, then make them give back compensation. You put them to death, if you want to put them to death. But to simply say, if you hire somebody with an incentive package to save the company, and the company goes broke, that you are going to take it back, that is up to the bankruptcy court to decide.

So this ill-gotten gain business is good rhetoric, but it has absolutely nothing to do with this amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? Just 29 seconds remain to the Senator from Texas, and 5½ minutes remain to the Senator from Maryland.

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maryland has 5 minutes remaining, the Senator from Texas has 30 seconds.

Mr. GRAMM. Mr. President, the Senator from Maryland should have the right to end the debate.

I think we have two bills: One in the Senate, one in the House. We can come up with a better bill than either. I think America will survive under either bill. Given the environment we are in, that represents some achievement, and I am proud of it.

I think we will come out of conference with a better bill than the House bill and a better bill than the Senate bill. I think people will be proud of what we did.

If I were an investor today, and I had a lot of money, I would invest in the stock market today.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Maryland has 4 minutes 45 seconds remaining.

Mr. SARBANES. Mr. President, we have been trying to clear amendments. We have yesterday—not yesterday, but on Friday we adopted three amendments on the basis of a unanimous consent request. We have worked through two additional amendments. I am going to offer them now.

One is an amendment by Senator SHELBY for a study with respect to aider and abettor violations of the Federal securities law. I ask unanimous consent that the pending amendment be set aside; that the Shelby amendment, No. 4261, be called up and modified with a modification that I send to the desk; that the amendment as modified be agreed to; and then we then return to the regular order which, as I understand it, would be the Edwards as modified by the Carnahan amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 4261, AS MODIFIED

Mr. SARBANES. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maryland (Mr. SARBANES) for Mr. SHELBY, proposes an amendment numbered 4261, as modified.

The amendment is as follow:

(Purpose: To require the SEC to conduct a study and submit a report to the Congress on aider and abettor violations of the Federal securities laws)

On page 108 after line 15, insert the following:

''(c)(1) The Commission shall conduct a study to determine based upon information for the period from January 1, 1998 to December 31, 2001—

''(A) the number of ''securities professionals,'' which term shall mean public accountants, public accounting firms, investment bankers, investment advisers, brokers, dealers, attorneys, and other securities professionals practicing before the Commission—

''(i) who have been found to have aided and abetted a violation of the Federal securities laws, including rules or regulations promulgated thereunder (hereinafter collectively referred to as ''Federal securities laws''), but who have not been sanctioned, disciplined, or otherwise penalized as a primary violator in any administrative action or civil proceeding, including in any settlement of such actions or proceedings (referred to hereinafter as ''aiders and abettors'') and

''(ii) who have been found to have been primary violators of the Federal securities laws;

''(B) a description of the Federal securities laws violations committed by aiders and abettors and by primary violators, including—

''(i) the specific provisions of the Federal securities laws violated;

''(ii) the specific sanctions and penalties imposed upon, such aiders and abetters and primary violators, including the amount of any monetary penalties assessed upon and collected from such persons;

''(iii) the occurrence of multiple violations by the same person or persons either as an aider or abetter or as a primary violator; and

''(iv) whether as to each such violator disciplinary sanctions have been imposed, including any censure, suspension, temporary bar, or permanent bar to practice before the Commission; and

''(C) the amount of disgorgement, restitution or any other fines or payments the Commission has (i) assessed upon and (ii) collected from aiders and abetters and from primary violators.

''(2) A report based upon the study conducted pursuant to subsection (c)(1) shall be submitted to the Senate Committee on Banking, Housing, and Urban Affairs no later than six months after the date of enactment of the ''Public Company Accounting Reform and Investor Protection Act of 2002.''.

Page 78 strike lines 15–24 and insert the following:

In supervising non-registered public accounting firms and their associated persons, appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The standards applied by the Board under this Act should not be presumed to be applicable for purposes of this section for small and medium sized nonregistered public accounting firms.

The PRESIDING OFFICER. Without objection, the amendment as modified is agreed to.

The amendment (No. 4261), as modified, was agreed to.

Mr. SARBANES. Was the Ensign amendment also on that amendment?

I urge the adoption of the amendments.

The PRESIDING OFFICER. The amendments have been agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, in the regular order we are back with the Edwards and Carnahan amendments pending?

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. I have a couple of minutes?

The PRESIDING OFFICER. There remains 1 minute.

Mr. SARBANES. Mr. President, I think the Senate is about to take a major step to contributing to the restoration of investor confidence.

This legislation establishes a strong independent board to oversee auditors

of the public companies. The board can set standards, investigate, and discipline accountants. It will be overseen by the SEC, but it will have independent funding and membership. I think this marks the end of weak self-regulation with respect to public company auditors.

It addresses pervasive conflicts of interest by ensuring auditor independence by restricting them from providing a defined list of consulting services. Other consulting services on the part of the auditor can be permitted if preapproved by the company's audit company.

This legislation strengthens corporate responsibility. It establishes safeguards to protect investment/analyst conflicts, and it gives the SEC expanded staff resources so it has the resources to carry out its mandate of protecting investors in this critical time.

It is no exaggeration to say the crisis in our markets has put the plans and hopes and dreams of millions of Americans at risk. To restore market integrity on which investor confidence depends, we should move expeditiously to move this legislation into law.

I want to express my deep appreciation to my colleagues with whom we have worked for many weeks: To Senator GRAMM, the ranking member of the committee with whom we interact in an interesting and, on occasions, exciting fashion; to Senator ENZI, who made a major contribution; to Senators DODD and CORZINE on our side of the aisle who played an essential role and introduced vital legislation on this issue very early on; to Senator DURBIN who also introduced significant legislation on this subject, and to many other colleagues; and to Senator REID, who has been extraordinarily helpful here on the floor of the U.S. Senate.

Mr. REID. Mr. President, I ask unanimous consent the 1 minute Senator CARNAHAN has—she is not going to be using it—that it be given to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland has an additional minute.

Mr. SARBANES. Mr. President, we don't do this work by ourselves. We all know that very well. We rely very heavily on dedicated, absolutely dedicated staff members. I am going to take the closing time I have to simply read their names into the RECORD: Dean Shahinian, Steve Kroll, Lynsey Graham, Vincent Meehan, Sarah Kline, Judy Keenan, Jesse Jacobs, Aaron Kline, Marty Gruenberg and Steve Harris of the Banking Committee staff; Wayne Abernathy and Linda Lord of Senator GRAMM's staff on the committee. There has also been the staff of the individual Members.

I particularly want to acknowledge Mike Thompson and Katherine McGuire of Senator ENZI's staff, and Alex Sternhell and Naomi Camper, Jon Berger, Jimmy Williams, Catherine Cruz Wojtasik, Leslie Wooley, Margaret Simmons, Mat Young, Roger Hollingsworth and Matt Pippin.

I express my very deep appreciation. The dedication these staff members demonstrated over the last few months was just extraordinary: Long nights, weekends, day in and day out. I hope very much they will take a measure of satisfaction in the sense that they have made a very important and significant contribution to better public policy in this country.

I yield the floor.

VOTE ON AMENDMENT NO. 4286

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 4286. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAIG), the Senator from Idaho (Mr. CRAPO), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—97

Akaka	Edwards	McConnell
Allard	Ensign	Mikulski
Allen	Enzi	Miller
Baucus	Feingold	Murkowski
Bayh	Feinstein	Murray
Bennett	Fitzgerald	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Nickles
Bond	Gramm	Reed
Boxer	Grassley	Reid
Breaux	Gregg	Roberts
Brownback	Hagel	Rockefeller
Bunning	Harkin	Santorum
Burns	Hatch	Sarbanes
Byrd	Hollings	Schumer
Campbell	Hutchinson	Sessions
Cantwell	Hutchison	Shelby
Carnahan	Inhofe	Smith (NH)
Carper	Inouye	Smith (OR)
Chafee	Jeffords	Snowe
Cleland	Johnson	Specter
Clinton	Kennedy	Stabenow
Cochran	Kerry	Stevens
Collins	Kohl	Thomas
Conrad	Kyl	Thompson
Corzine	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden
Dorgan	Lugar	
Durbin	McCain	

NOT VOTING—3

Craig	Crapo	Helms

The amendment (No. 4286) was agreed to.

Mr. DASCHLE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mrs. LINCOLN). The majority leader.

Mr. DASCHLE. Madam President, under an earlier agreement, the next four votes will all be 10-minute votes. I urge Senators to stay in the well. We are going to cut it off at 10 minutes. If you are not here in 10 minutes, you have lost the opportunity to vote. I urge Members to move forward, and we will take on the next vote.

VOTE ON AMENDMENT NO. 4187, AS MODIFIED, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4187, as modified, as amended.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAPO), the Senator from Idaho (Mr. CRAIG), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—97

Akaka	Edwards	McConnell
Allard	Ensign	Mikulski
Allen	Enzi	Miller
Baucus	Feingold	Murkowski
Bayh	Feinstein	Murray
Bennett	Fitzgerald	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Nickles
Bond	Gramm	Reed
Boxer	Grassley	Reid
Breaux	Gregg	Roberts
Brownback	Hagel	Rockefeller
Bunning	Harkin	Santorum
Burns	Hatch	Sarbanes
Byrd	Hollings	Schumer
Campbell	Hutchinson	Sessions
Cantwell	Hutchison	Shelby
Carnahan	Inhofe	Smith (NH)
Carper	Inouye	Smith (OR)
Chafee	Jeffords	Snowe
Cleland	Johnson	Specter
Clinton	Kennedy	Stabenow
Cochran	Kerry	Stevens
Collins	Kohl	Thomas
Conrad	Kyl	Thompson
Corzine	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden
Dorgan	Lugar	
Durbin	McCain	

NOT VOTING—3

Craig	Crapo	Helms

The amendment (No. 4187), as modified, as amended, was agreed to.

Mr. SARBANES. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on 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 Senator from Maryland is recognized.

Mr. SARBANES. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall it pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAPO), the Senator from Idaho (Mr. CRAIG), and

the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea''.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—97

Akaka	Edwards	McConnell
Allard	Ensign	Mikulski
Allen	Enzi	Miller
Baucus	Feingold	Murkowski
Bayh	Feinstein	Murray
Bennett	Fitzgerald	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Nickles
Bond	Gramm	Reed
Boxer	Grassley	Reid
Breaux	Gregg	Roberts
Brownback	Hagel	Rockefeller
Bunning	Harkin	Santorum
Burns	Hatch	Sarbanes
Byrd	Hollings	Schumer
Campbell	Hutchinson	Sessions
Cantwell	Hutchison	Shelby
Carnahan	Inhofe	Smith (NH)
Carper	Inouye	Smith (OR)
Chafee	Jeffords	Snowe
Cleland	Johnson	Specter
Clinton	Kennedy	Stabenow
Cochran	Kerry	Stevens
Collins	Kohl	Thomas
Conrad	Kyl	Thompson
Corzine	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden
Dorgan	Lugar	
Durbin	McCain	

NOT VOTING—3

Craig	Crapo	Helms

The bill (S. 2673), as amended, was passed.

Mr. SARBANES. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Banking Committee is discharged from further consideration of H.R. 3763, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause will be stricken and the text of S. 2673, as passed, is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 3763), as amended, was passed, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Public Company Accounting Reform and Investor Protection 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. Definitions.
Sec. 3. Commission rules and enforcement.

TITLE I—PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

Sec. 101. Establishment; administrative provisions.
Sec. 102. Registration with the Board.
Sec. 103. Auditing, quality control, and independence standards and rules.
Sec. 104. Inspections of registered public accounting firms.
Sec. 105. Investigations and disciplinary proceedings.
Sec. 106. Foreign public accounting firms.
Sec. 107. Commission oversight of the Board.
Sec. 108. Accounting standards.
Sec. 109. Funding.

TITLE II—AUDITOR INDEPENDENCE

Sec. 201. Services outside the scope of practice of auditors.
Sec. 202. Preapproval requirements.
Sec. 203. Audit partner rotation.
Sec. 204. Auditor reports to audit committees.
Sec. 205. Conforming amendments.
Sec. 206. Conflicts of interest.
Sec. 207. Study of mandatory rotation of registered public accounting firms.
Sec. 208. Commission authority.
Sec. 209. Considerations by appropriate State regulatory authorities.

TITLE III—CORPORATE RESPONSIBILITY

Sec. 301. Public company audit committees.
Sec. 302. Corporate responsibility for financial reports.
Sec. 303. Improper influence on conduct of audits.
Sec. 304. Forfeiture of certain bonuses and profits.
Sec. 305. Officer and director bars and penalties.
Sec. 306. Insider trades during pension fund blackout periods prohibited.

TITLE IV—ENHANCED FINANCIAL DISCLOSURES

Sec. 401. Disclosures in periodic reports.
Sec. 402. Enhanced conflict of interest provisions.
Sec. 403. Disclosures of transactions involving management and principal stockholders.
Sec. 404. Management assessment of internal controls.
Sec. 405. Exemption.
Sec. 406. Code of ethics for senior financial officers.
Sec. 407. Disclosure of audit committee financial expert.

TITLE V—ANALYST CONFLICTS OF INTEREST

Sec. 501. Treatment of securities analysts by registered securities associations.

TITLE VI—COMMISSION RESOURCES AND AUTHORITY

Sec. 601. Authorization of appropriations.
Sec. 602. Appearance and practice before the Commission.
Sec. 603. Federal court authority to impose penny stock bars.
Sec. 604. Qualifications of associated persons of brokers and dealers.

TITLE VII—STUDIES AND REPORTS

Sec. 701. GAO study and report regarding consolidation of public accounting firms.
Sec. 702. Commission study and report regarding credit rating agencies.

TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

Sec. 801. Short title.
Sec. 802. Criminal penalties for altering documents.
Sec. 803. Debts nondischargeable if incurred in violation of securities fraud laws.
Sec. 804. Statute of limitations for securities fraud.
Sec. 805. Review of Federal sentencing guidelines for obstruction of justice and extensive criminal fraud.
Sec. 806. Protection for employees of publicly traded companies who provide evidence of fraud.
Sec. 807. Criminal penalties for defrauding shareholders of publicly traded companies.

TITLE IX—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

Sec. 901. Short title.
Sec. 902. Criminal penalties for conspiracy to commit offense or to defraud the United States.
Sec. 903. Criminal penalties for mail and wire fraud.
Sec. 904. Criminal penalties for violations of the Employee Retirement Income Security Act of 1974.
Sec. 905. Amendment to sentencing guidelines relating to certain white-collar offenses.
Sec. 906. Corporate responsibility for financial reports.
Sec. 907. Higher maximum penalties for mail and wire fraud.
Sec. 908. Tampering with a record or otherwise impeding an official proceeding.
Sec. 909. Temporary freeze authority for the Securities and Exchange Commission.
Sec. 910. Amendment to the Federal sentencing guidelines.
Sec. 911. Authority of the Commission to prohibit persons from serving as officers or directors.

TITLE X—CORPORATE TAX RETURNS

Sec. 1001. Sense of the Senate regarding the signing of corporate tax returns by chief executive officers.

SEC. 2. DEFINITIONS.

(a) IN GENERAL.—In this Act, the following definitions shall apply:

(1) APPROPRIATE STATE REGULATORY AUTHORITY.—The term ''appropriate State regulatory authority'' means the State agency or other authority responsible for the licensure or other regulation of the practice of accounting in the State or States having jurisdiction over a registered public accounting firm or associated person thereof, with respect to the matter in question.

(2) AUDIT.—The term ''audit'' means an examination of the financial statements of any issuer by an independent public accounting firm in accordance with the rules of the Board or the Commission (or, for the period preceding the adoption of applicable rules of the Board under section 103, in accordance with then-applicable generally accepted auditing and related standards for such purposes), for the purpose of expressing an opinion on such statements.

(3) AUDIT COMMITTEE.—The term ''audit committee'' means—

(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer; and

(B) if no such committee exists with respect to an issuer, the entire board of directors of the issuer.

(4) AUDIT REPORT.—The term ''audit report'' means a document or other record—

(A) prepared following an audit performed for purposes of compliance by an issuer with the requirements of the securities laws; and

(B) in which a public accounting firm either—

(i) sets forth the opinion of that firm regarding a financial statement, report, or other document; or

(ii) asserts that no such opinion can be expressed.

(5) BOARD.—The term ''Board'' means the Public Company Accounting Oversight Board established under section 101.

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

(7) ISSUER.—The term ''issuer'' means an issuer (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)), the securities of which are registered under section 12 of that Act (15 U.S.C. 78l), or that is required to file reports pursuant to section 15(d) of that Act (15 U.S.C. 78o(d)), or that will be required to file such reports at the end of a fiscal year of the issuer in which a registration statement filed by such issuer has become effective pursuant to the Securities Act of 1933 (15 U.S.C. 77a et. seq.), unless its securities are registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) on or before the end of such fiscal year.

(8) NON-AUDIT SERVICES.—The term ''non-audit services'' means any professional services provided to an issuer by a registered public accounting firm, other than those provided to an issuer in connection with an audit or a review of the financial statements of an issuer.

(9) PERSON ASSOCIATED WITH A PUBLIC ACCOUNTING FIRM.—

(A) IN GENERAL.—The terms ''person associated with a public accounting firm'' (or with a ''registered public accounting firm'') and ''associated person of a public accounting firm'' (or of a ''registered public accounting firm'') mean any individual proprietor, partner, shareholder, principal, accountant, or other professional employee of a public accounting firm, or any other independent contractor or entity that, in connection with the preparation or issuance of any audit report—

(i) shares in the profits of, or receives compensation in any other form from, that firm; or

(ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm.

(B) EXEMPTION AUTHORITY.—The Board may, by rule, exempt persons engaged only in ministerial tasks from the definition in subparagraph (A), to the extent that the Board determines that any such exemption is consistent with the purposes of this Act, the public interest, or the protection of investors.

(10) PROFESSIONAL STANDARDS.—The term ''professional standards'' means—

(A) accounting principles that are—

(i) established by the standard setting body described in section 19(b) of the Securities Act of 1933, as amended by this Act, or prescribed by the Commission under section 19(a) of that Act (15 U.S.C. 17a(s)) or section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(m)); and

(ii) relevant to audit reports for particular issuers, or dealt with in the quality control system of a particular registered public accounting firm; and

(B) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards (including rules implementing title II) that the Board or the Commission determines—

(i) relate to the preparation or issuance of audit reports for issuers; and

(ii) are established or adopted by the Board under section 103(a), or are promulgated as rules of the Commission.

(11) PUBLIC ACCOUNTING FIRM.—The term ''public accounting firm'' means—

(A) a proprietorship, partnership, incorporated association, corporation, limited liability company, limited liability partnership, or other legal entity that is engaged in the practice of public accounting or preparing or issuing audit reports; and

(B) to the extent so designated by the rules of the Board, any associated person of any entity described in subparagraph (A).

(12) REGISTERED PUBLIC ACCOUNTING FIRM.—The term ''registered public accounting firm'' means a public accounting firm registered with the Board in accordance with this Act.

(13) RULES OF THE BOARD.—The term ''rules of the Board'' means the bylaws and rules of the Board (as submitted to, and approved, modified, or amended by the Commission, in accordance with section 107), and those stated policies, practices, and interpretations of the Board that the Commission, by rule, may deem to be rules of the Board, as necessary or appropriate in the public interest or for the protection of investors.

(14) SECURITY.—The term ''security'' has the same meaning as in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

(15) SECURITIES LAWS.—The term ''securities laws'' means the provisions of law referred to in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), as amended by this Act, and includes the rules, regulations, and orders issued by the Commission thereunder.

(16) STATE.—The term ''State'' means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any other territory or possession of the United States.

(b) CONFORMING AMENDMENT.—Section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) is amended by inserting ''the Public Company Accounting Reform and Investor Protection Act of 2002,'' before ''the Public''.

SEC. 3. COMMISSION RULES AND ENFORCEMENT.

(a) REGULATORY ACTION.—The Commission shall promulgate such rules and regulations, as may be necessary or appropriate in the public interest or for the protection of investors, and in furtherance of this Act.

(b) ENFORCEMENT.—

(1) IN GENERAL.—A violation by any person of this Act, any rule or regulation of the Commission issued under this Act, or any rule of the Board shall be treated for all purposes in the same manner as a violation of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the rules and regulations issued thereunder, consistent with the provisions of this Act, and any such person shall be subject to the same penalties, and to the same extent, as for a violation of that Act or such rules or regulations.

(2) INVESTIGATIONS, INJUNCTIONS, AND PROSECUTION OF OFFENSES.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended

(A) in subsection (a)(1), by inserting ''the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm,'' after ''is a participant,'';

(B) in subsection (d)(1), by inserting ''the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm,'' after ''is a participant,'';

(C) in subsection (e), by inserting ''the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm,'' after ''is a participant,''; and

(D) in subsection (f), by inserting ''or the Public Company Accounting Oversight Board'' after ''self-regulatory organization'' each place that term appears.

(3) CEASE-AND-DESIST PROCEEDINGS.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3(c)(2)) is amended by inserting ''registered public accounting firm (as defined in section 2 of the Public Company Accounting Reform and Investor Protection Act of 2002),'' after ''government securities dealer,''.

(c) EFFECT ON COMMISSION AUTHORITY.—Nothing in this Act or the rules of the Board shall be construed to impair or limit—

(1) the authority of the Commission to regulate the accounting profession, accounting firms, or persons associated with such firms for purposes of enforcement of the securities laws;

(2) the authority of the Commission to set standards for accounting or auditing practices or auditor independence, derived from other provisions of the securities laws or the rules or regulations thereunder, for purposes of the preparation and issuance of any audit report, or otherwise under applicable law; or

(3) the ability of the Commission to take, on the initiative of the Commission, legal, administrative, or disciplinary action against any registered public accounting firm or any associated person thereof.

TITLE I—PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

SEC. 101. ESTABLISHMENT; ADMINISTRATIVE PROVISIONS.

(a) ESTABLISHMENT OF BOARD.—There is established the Public Company Accounting Oversight Board, to oversee the audit of public companies that are subject to the securities laws, and related matters, in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports for companies the securities of which are sold to, and held by and for, public investors. The Board shall be a body corporate, operate as a nonprofit corporation, and have succession until dissolved by an Act of Congress.

(b) STATUS.—The Board shall not be an agency or establishment of the United States Government, and, except as otherwise provided in this Act, shall be subject to, and have all the powers conferred upon a nonprofit corporation by, the District of Columbia Nonprofit Corporation Act. No member or person employed by, or agent for, the Board shall be deemed to be an officer or employee of or agent for the Federal Government by reason of such service.

(c) DUTIES OF THE BOARD.—The Board shall, subject to action by the Commission under section 107, and once a determination is made by the Commission under subsection (d) of this section—

(1) register public accounting firms that prepare audit reports for issuers, in accordance with section 102;

(2) establish or adopt, or both, by rule, auditing, quality control, ethics, independence, and other standards relating to the preparation of audit reports for issuers, in accordance with section 103;

(3) conduct inspections of registered public accounting firms, in accordance with section 104 and the rules of the Board;

(4) conduct investigations and disciplinary proceedings concerning, and impose appropriate sanctions where justified upon, registered public accounting firms and associated persons of such firms, in accordance with section 105;

(5) perform such other duties or functions as the Board determines are necessary or appropriate to promote high professional standards among, and improve the quality of audit services offered by, registered public accounting firms and associated persons thereof, or otherwise to carry out this Act, in order to protect investors, or to further the public interest;

(6) enforce compliance with this Act, the rules of the Board, professional standards, and the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, by registered public accounting firms and associated persons thereof; and

(7) set the budget and manage the operations of the Board and the staff of the Board.

(d) COMMISSION DETERMINATION.—The members of the Board shall take such action (including hiring of staff, proposal of rules, and adoption of initial and transitional auditing and other professional standards) as may be necessary or appropriate to enable the Commission

to determine, not later than 270 days after the date of enactment of this Act, that the Board is so organized and has the capacity to carry out the requirements of this title, and to enforce compliance with this title by registered public accounting firms and associated persons thereof.

(e) BOARD MEMBERSHIP.—

(1) COMPOSITION.—The Board shall have 5 members, appointed from among prominent individuals of integrity and reputation who have a demonstrated commitment to the interests of investors and the public, and an understanding of the responsibilities for and nature of the financial disclosures required of issuers under the securities laws and the obligations of accountants with respect to the preparation and issuance of audit reports with respect to such disclosures.

(2) LIMITATION.—Two members, and only 2 members, of the Board shall be or have been certified public accountants pursuant to the laws of 1 or more States, provided that, if 1 of those 2 members is the chairperson, he or she may not have been a practicing certified public accountant for at least 5 years prior to his or her appointment to the Board.

(3) FULL-TIME INDEPENDENT SERVICE.—Each member of the Board shall serve on a full-time basis, and may not, concurrent with service on the Board, be employed by any other person or engage in any other professional or business activity. No member of the Board may share in any of the profits of, or receive payments from, a public accounting firm (or any other person, as determined by rule of the Commission), other than fixed continuing payments, subject to such conditions as the Commission may impose, under standard arrangements for the retirement of members of public accounting firms.

(4) APPOINTMENT OF BOARD MEMBERS.—

(A) INITIAL BOARD.—Not later than 90 days after the date of enactment of this Act, the Commission, after consultation with the Chairman of the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, shall appoint the chairperson and other initial members of the Board, and shall designate a term of service for each.

(B) VACANCIES.—A vacancy on the Board shall not affect the powers of the Board, but shall be filled in the same manner as provided for appointments under this section.

(5) TERM OF SERVICE.—

(A) IN GENERAL.—The term of service of each Board member shall be 5 years, and until a successor is appointed, except that—

(i) the terms of office of the initial Board members (other than the chairperson) shall expire in annual increments, 1 on each of the first 4 anniversaries of the initial date of appointment; and

(ii) any Board member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term.

(B) TERM LIMITATION.—No person may serve as a member of the Board, or as chairperson of the Board, for more than 2 terms, whether or not such terms of service are consecutive.

(6) REMOVAL FROM OFFICE.—A member of the Board may be removed by the Commission from office, in accordance with section 107(d)(3), for good cause shown before the expiration of the term of that member.

(f) POWERS OF THE BOARD.—In addition to any authority granted to the Board otherwise in this Act, the Board shall have the power, subject to section 107—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel, with the approval of the Commission, in any Federal, State, or other court;

(2) to conduct its operations and maintain offices, and to exercise all other rights and powers authorized by this Act, in any State, without regard to any qualification, licensing, or other provision of law in effect in such State (or a political subdivision thereof);

(3) to lease, purchase, accept gifts or donations of or otherwise acquire, improve, use, sell, exchange, or convey, all of or an interest in any property, wherever situated;

(4) to appoint such employees, accountants, attorneys, and other agents as may be necessary or appropriate, and to determine their qualifications, define their duties, and fix their salaries or other compensation (at a level that is comparable to private sector self-regulatory, accounting, technical, supervisory, or other staff or management positions);

(5) to allocate, assess, and collect accounting support fees established pursuant to section 109, for the Board, and other fees and charges imposed under this title; and

(6) to enter into contracts, execute instruments, incur liabilities, and do any and all other acts and things necessary, appropriate, or incidental to the conduct of its operations and the exercise of its obligations, rights, and powers imposed or granted by this title.

(g) RULES OF THE BOARD.—The rules of the Board shall, subject to the approval of the Commission—

(1) provide for the operation and administration of the Board, the exercise of its authority, and the performance of its responsibilities under this Act;

(2) permit, as the Board determines necessary or appropriate, delegation by the Board of any of its functions to an individual member or employee of the Board, or to a division of the Board, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any matter, except that—

(A) the Board shall retain a discretionary right to review any action pursuant to any such delegated function, upon its own motion;

(B) a person shall be entitled to a review by the Board with respect to any matter so delegated, and the decision of the Board upon such review shall be deemed to be the action of the Board for all purposes (including appeal or review thereof); and

(C) if the right to exercise a review described in subparagraph (A) is declined, or if no such review is sought within the time stated in the rules of the Board, then the action taken by the holder of such delegation shall for all purposes, including appeal or review thereof, be deemed to be the action of the Board;

(3) establish ethics rules and standards of conduct for Board members and staff, including a bar on practice before the Board (and the Commission, with respect to Board-related matters) of 1 year for former members of the Board, and appropriate periods (not to exceed 1 year) for former staff of the Board; and

(4) provide as otherwise required by this Act.

(h) ANNUAL REPORT TO THE COMMISSION.—The Board shall submit an annual report (including its audited financial statements) to the Commission, and the Commission shall transmit a copy of that report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, not later than 30 days after the date of receipt of that report by the Commission.

SEC. 102. REGISTRATION WITH THE BOARD.

(a) MANDATORY REGISTRATION.—Beginning 180 days after the date of the determination of the Commission under section 101(d), it shall be unlawful for any person that is not a registered public accounting firm to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer.

(b) APPLICATIONS FOR REGISTRATION.—

(1) FORM OF APPLICATION.—A public accounting firm shall use such form as the Board may prescribe, by rule, to apply for registration under this section.

(2) CONTENTS OF APPLICATIONS.—Each public accounting firm shall submit, as part of its application for registration, in such detail as the Board shall specify—

(A) the names of all issuers for which the firm prepared or issued audit reports during the immediately preceding calendar year, and for which the firm expects to prepare or issue audit reports during the current calendar year;

(B) the annual fees received by the firm from each such issuer for audit services, other accounting services, and non-audit services, respectively;

(C) such other current financial information for the most recently completed fiscal year of the firm as the Board may reasonably request;

(D) a statement of the quality control policies of the firm for its accounting and auditing practices;

(E) a list of all accountants associated with the firm who participate in or contribute to the preparation of audit reports, stating the license or certification number of each such person, as well as the State license numbers of the firm itself;

(F) information relating to criminal, civil, or administrative actions or disciplinary proceedings pending against the firm or any associated person of the firm in connection with any audit report;

(G) copies of any periodic or annual disclosure filed by an issuer with the Commission during the immediately preceding calendar year which discloses accounting disagreements between such issuer and the firm in connection with an audit report furnished or prepared by the firm for such issuer; and

(H) such other information as the rules of the Board or the Commission shall specify as necessary or appropriate in the public interest or for the protection of investors.

(3) CONSENTS.—Each application for registration under this subsection shall include—

(A) a consent executed by the public accounting firm to cooperation in and compliance with any request for testimony or the production of documents made by the Board in the furtherance of its authority and responsibilities under this title (and an agreement to secure and enforce similar consents from each of the associated persons of the public accounting firm as a condition of their continued employment by or other association with such firm); and

(B) a statement that such firm understands and agrees that cooperation and compliance, as described in the consent required by subparagraph (A), and the securing and enforcement of such consents from its associated persons, in accordance with the rules of the Board, shall be a condition to the continuing effectiveness of the registration of the firm with the Board.

(c) ACTION ON APPLICATIONS.—

(1) TIMING.—The Board shall approve a completed application for registration not later than 45 days after the date of receipt of the application, in accordance with the rules of the Board, unless the Board, prior to such date, issues a written notice of disapproval to, or requests more information from, the prospective registrant.

(2) TREATMENT.—A written notice of disapproval of a completed application under paragraph (1) for registration shall be treated as a disciplinary sanction for purposes of sections 105(d) and 107(c).

(d) PERIODIC REPORTS.—Each registered public accounting firm shall submit an annual report to the Board, and may be required to report more frequently, as necessary to update the information contained in its application for registration under this section, and to provide to the Board such additional information as the Board or the Commission may specify, in accordance with subsection (b)(2).

(e) PUBLIC AVAILABILITY.—Registration applications and annual reports required by this subsection, or such portions of such applications or reports as may be designated under rules of the Board, shall be made available for public inspection, subject to rules of the Board or the Commission, and to applicable laws relating to the confidentiality of proprietary, personal, or

other information contained in such applications or reports, provided that, in all events, the Board shall protect from public disclosure information reasonably identified by the subject accounting firm as proprietary information.

(f) REGISTRATION AND ANNUAL FEES.—The Board shall assess and collect a registration fee and an annual fee from each registered public accounting firm, in amounts that are sufficient to recover the costs of processing and reviewing applications and annual reports.

SEC. 103. AUDITING, QUALITY CONTROL, AND INDEPENDENCE STANDARDS AND RULES.

(a) AUDITING, QUALITY CONTROL, AND ETHICS STANDARDS.—

''(1) IN GENERAL.—The Board shall, by rule, establish, including, to the extent it determines appropriate, through adoption of standards proposed by 1 or more professional groups of accountants designated pursuant to paragraph (3)(A) or advisory groups convened pursuant to paragraph (4), and amend or otherwise modify or alter, such auditing and related attestation standards, such quality control standards, and such ethics standards to be used by registered public accounting firms in the preparation and issuance of audit reports, as required by this Act or the rules of the Commission, or as may be necessary or appropriate in the public interest or for the protection of investors.

(2) RULE REQUIREMENTS.—In carrying out paragraph (1), the Board—

(A) shall include in the auditing standards that it adopts, requirements that each registered public accounting firm shall—

(i) prepare, and maintain for a period of not less than 7 years, audit work papers, and other information related to any audit report, in sufficient detail to support the conclusions reached in such report;

(ii) provide a concurring or second partner review and approval of such audit report (and other related information), and concurring approval in its issuance, by a qualified person (as prescribed by the Board) associated with the public accounting firm, other than the person in charge of the audit, or by an independent reviewer (as prescribed by the Board); and

(iii) describe the scope of the auditor's testing of the system of internal accounting controls of the issuer required by section 13(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)(2)), and present (in such report or in a separate report)—

(I) the findings of the auditor from such testing;

(II) an evaluation of whether such system of internal accounting controls—

(aa) complies with the requirements of that section 13(b)(2); and

(bb) provides reasonable assurance that receipts and expenditures of the issuer comply with applicable law, and are being made in accordance with proper authorizations of the management and directors of the issuer; and

(III) a description of significant defects in such internal controls, and of any material noncompliance, of which the auditor should know on the basis of such testing; and

(B) shall include, in the quality control standards that it adopts with respect to the issuance of audit reports, requirements for every registered public accounting firm relating to—

(i) monitoring of professional ethics and independence from issuers on behalf of which the firm issues audit reports;

(ii) consultation within such firm on accounting and auditing questions;

(iii) supervision of audit work;

(iv) hiring, professional development, and advancement of personnel;

(v) the acceptance and continuation of engagements;

(vi) internal inspection; and

(vii) such other requirements as the Board may prescribe, subject to subsection (a)(1).

(3) AUTHORITY TO ADOPT OTHER STANDARDS.—

(A) IN GENERAL.—In carrying out this subsection, the Board—

(i) may adopt as its rules, subject to the terms of section 107, any portion of any statement of auditing standards or other professional standards that the Board determines satisfy the requirements of paragraph (1), and that were proposed by 1 or more professional groups of accountants that shall be designated or recognized by the Board, by rule, for such purpose, pursuant to this paragraph or 1 or more advisory groups convened pursuant to paragraph (4); and

(ii) notwithstanding clause (i), shall retain full authority to modify, supplement, revise, or subsequently amend, modify, or repeal, in whole or in part, any portion of any statement described in clause (i).

(B) INITIAL AND TRANSITIONAL STANDARDS.—The Board shall adopt standards described in subparagraph (A)(i) as initial or transitional standards, to the extent the Board determines necessary, prior to a determination of the Commission under section 101(d), and such standards shall be separately approved by the Commission at the time of that determination, without regard to the procedures required by section 107 that otherwise would apply to the approval of rules of the Board.

(4) ADVISORY GROUPS.—The Board shall convene, or authorize its staff to convene, such expert advisory groups as may be appropriate, which may include practicing accountants and other experts, as well as representatives of other interested groups, subject to such rules as the Board may prescribe to prevent conflicts of interest, to make recommendations concerning the content (including proposed drafts) of auditing, quality control, ethics, independence, or other standards required to be established under this section.

(b) INDEPENDENCE STANDARDS AND RULES.—The Board shall establish such rules as may be necessary or appropriate in the public interest or for the protection of investors, to implement, or as authorized under, title II of this Act.

(c) COOPERATION WITH DESIGNATED PROFESSIONAL GROUPS OF ACCOUNTANTS AND ADVISORY GROUPS.—

(1) IN GENERAL.—The Board shall cooperate on an ongoing basis with professional groups of accountants designated under subsection (a)(3)(A) and advisory groups convened under subsection (a)(4) in the examination of the need for changes in any standards subject to its authority under subsection (a), recommend issues for inclusion on the agendas of such designated professional groups of accountants or advisory groups, and take such other steps as it deems appropriate to increase the effectiveness of the standard setting process.

(2) BOARD RESPONSES.—The Board shall respond in a timely fashion to requests from designated professional groups of accountants and advisory groups referred to in paragraph (1) for any changes in standards over which the Board has authority.

(d) EVALUATION OF STANDARD SETTING PROCESS.—The Board shall include in the annual report required by section 101(h) the results of its standard setting responsibilities during the period to which the report relates, including a discussion of the work of the Board with any designated professional groups of accountants and advisory groups described in paragraphs (3)(A) and (4) of subsection (a), and its pending issues agenda for future standard setting projects.

SEC. 104. INSPECTIONS OF REGISTERED PUBLIC ACCOUNTING FIRMS.

(a) IN GENERAL.—The Board shall conduct a continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons of that firm with this Act, the rules of the Board, the rules of the Commission, or professional standards, in connection with its performance of audits, issuance of audit reports, and related matters involving issuers.

(b) INSPECTION FREQUENCY.—

(1) IN GENERAL.—Subject to paragraph (2), inspections required by this section shall be conducted—

(A) annually with respect to each registered public accounting firm that regularly provides audit reports for more than 100 issuers; and

(B) not less frequently than once every 3 years with respect to each registered public accounting firm that regularly provides audit reports for 100 or fewer issuers.

(2) ADJUSTMENTS TO SCHEDULES.—The Board may, by rule, adjust the inspection schedules set under paragraph (1) if the Board finds that different inspection schedules are consistent with the purposes of this Act, the public interest, and the protection of investors.

(c) PROCEDURES.—The Board shall, in each inspection under this section, and in accordance with its rules for such inspections—

(1) identify any act or practice or omission to act by the registered public accounting firm, or by any associated person thereof, revealed by such inspection that may be in violation of this Act, the rules of the Board, the rules of the Commission, the firm's own quality control policies, or professional standards;

(2) report any such act, practice, or omission, if appropriate, to the Commission and each appropriate State regulatory authority; and

(3) begin a formal investigation or take appropriate disciplinary action, if any, with respect to any such violation, in accordance with this Act and the rules of the Board.

(d) CONDUCT OF INSPECTIONS.—In conducting an inspection of a registered public accounting firm under this section, the Board shall—

(1) inspect and review selected audit and review engagements of the firm (which may include audit engagements that are the subject of ongoing litigation or other controversy between the firm and 1 or more third parties), performed at various offices and by various associated persons of the firm, as selected by the Board;

(2) evaluate the sufficiency of the quality control system of the firm, and the manner of the documentation and communication of that system by the firm; and

(3) perform such other testing of the audit, supervisory, and quality control procedures of the firm as are necessary or appropriate in light of the purpose of the inspection and the responsibilities of the Board.

(e) RECORD RETENTION.—The rules of the Board may require the retention by registered public accounting firms for inspection purposes of records whose retention is not otherwise required by section 103 or the rules issued thereunder.

(f) PROCEDURES FOR REVIEW.—The rules of the Board shall provide a procedure for the review of and response to a draft inspection report by the registered public accounting firm under inspection. The Board shall take such action with respect to such response as it considers appropriate (including revising the draft report or continuing or supplementing its inspection activities before issuing a final report), but the text of any such response, appropriately redacted to protect information reasonably identified by the accounting firm as confidential, shall be attached to and made part of the inspection report.

(g) REPORT.—A written report of the findings of the Board for each inspection under this section, subject to subsection (h), shall be—

(1) transmitted, in appropriate detail, to the Commission and each appropriate State regulatory authority, accompanied by any letter or comments by the Board or the inspector, and any letter of response from the registered public accounting firm; and

(2) made available in appropriate detail to the public (subject to section 105(b)(5)(A), and to the protection of such confidential and proprietary information as the Board may determine to be appropriate, or as may be required by law), except that no portions of the inspection report

that deal with criticisms of or potential defects in the quality control systems of the firm under inspection shall be made public if those criticisms or defects are addressed by the firm, to the satisfaction of the Board, not later than 12 months after the date of the inspection report.

(h) INTERIM COMMISSION REVIEW.—

(1) REVIEWABLE MATTERS.—A registered public accounting firm may seek review by the Commission, pursuant to such rules as the Commission shall promulgate, if the firm—

(A) has provided the Board with a response, pursuant to rules issued by the Board under subsection (f), to the substance of particular items in a draft inspection report, and disagrees with the assessments contained in any final report prepared by the Board following such response; or

(B) disagrees with the determination of the Board that criticisms or defects identified in an inspection report have not been addressed to the satisfaction of the Board within 12 months of the date of the inspection report, for purposes of subsection (g)(2).

(2) TREATMENT OF REVIEW.—Any decision of the Commission with respect to a review under paragraph (1) shall not be reviewable under section 25 of the Securities Exchange Act of 1934 (15 U.S.C. 78y), or deemed to be ''final agency action'' for purposes of section 704 of title 5, United States Code.

(3) TIMING.—Review under paragraph (1) may be sought during the 30-day period following the date of the event giving rise to the review under subparagraph (A) or (B) of paragraph (1).

SEC. 105. INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS.

(a) IN GENERAL.—The Board shall establish, by rule, subject to the requirements of this section, fair procedures for the investigation and disciplining of registered public accounting firms and associated persons of such firms.

(b) INVESTIGATIONS.—

(1) AUTHORITY.—In accordance with the rules of the Board, the Board may conduct an investigation of any act or practice, or omission to act, by a registered public accounting firm, any associated person of such firm, or both, that may violate any provision of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under this Act, or professional standards, regardless of how the act, practice, or omission is brought to the attention of the Board.

(2) TESTIMONY AND DOCUMENT PRODUCTION.—In addition to such other actions as the Board determines to be necessary or appropriate, the rules of the Board may—

(A) require the testimony of the firm or of any person associated with a registered public accounting firm, with respect to any matter that the Board considers relevant or material to an investigation;

(B) require the production of audit work papers and any other document or information in the possession of a registered public accounting firm or any associated person thereof, wherever domiciled, that the Board considers relevant or material to the investigation, and may inspect the books and records of such firm or associated person to verify the accuracy of any documents or information supplied;

(C) request the testimony of, and production of any document in the possession of, any other person, including any client of a registered public accounting firm that the Board considers relevant or material to an investigation under this section, with appropriate notice, subject to the needs of the investigation, as permitted under the rules of the Board; and

(D) provide for procedures to seek issuance by the Commission, in a manner established by the Commission, of a subpoena to require the testimony of, and production of any document in the possession of, any person, including any client of a registered public accounting firm, that the Board considers relevant or material to an investigation under this section.

(3) NONCOOPERATION WITH INVESTIGATIONS.—

(A) IN GENERAL.—If a registered public accounting firm or any associated person thereof refuses to testify, produce documents, or otherwise cooperate with the Board in connection with an investigation under this section, the Board may—

(i) suspend or bar such person from being associated with a registered public accounting firm, or require the registered public accounting firm to end such association;

(ii) suspend or revoke the registration of the public accounting firm; and

(iii) invoke such other lesser sanctions as the Board considers appropriate, and as specified by rule of the Board.

(B) PROCEDURE.—Any action taken by the Board under this paragraph shall be subject to the terms of section 107(c).

(4) REFERRAL.—The Board may refer an investigation under this section—

(A) to the Commission;

(B) to any other Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), in the case of an investigation that concerns an audit report for an institution that is subject to the jurisdiction of such regulator; and

(C) at the direction of the Commission, to—

(i) the Attorney General of the United States;

(ii) the attorney general of 1 or more States; and

(iii) the appropriate State regulatory authority.

(5) USE OF DOCUMENTS.—

(A) CONFIDENTIALITY.—Except as provided in subparagraph (B), all documents and information prepared or received by or specifically for the Board, and deliberations of the Board and its employees and agents, in connection with an inspection under section 104 or with an investigation under this section, shall be confidential and privileged as an evidentiary matter (and shall not be subject to civil discovery or other legal process) in any proceeding in any Federal or State court or administrative agency, and shall be exempt from disclosure, in the hands of an agency or establishment of the Federal Government, under the Freedom of Information Act (5 U.S.C. 552a), or otherwise, unless and until presented in connection with a public proceeding or released in accordance with subsection (c).

(B) AVAILABILITY TO GOVERNMENT AGENCIES.—All information referred to in subparagraph (A) may, in the discretion of the Board, when determined by the Board to be necessary to accomplish the purposes of this Act or to protect investors, and without the loss of its status as confidential and privileged in the hands of the Board, be made available to the Commission, the Attorney General of the United States, to the appropriate Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), other than the Commission, with respect to an audit report for an institution subject to the jurisdiction of such regulator, to State attorneys general in connection with any criminal investigation, and to any appropriate State regulatory authority, which shall maintain such information as confidential and privileged.

(6) IMMUNITY.—Any employee of the Board engaged in carrying out an investigation under this Act shall be immune from any civil liability arising out of such investigation in the same manner and to the same extent as an employee of the Federal Government in similar circumstances.

(c) DISCIPLINARY PROCEDURES.—

(1) NOTIFICATION; RECORDKEEPING.—The rules of the Board shall provide that in any proceeding by the Board to determine whether a registered public accounting firm, or an associated person thereof, should be disciplined, the Board shall—

(A) bring specific charges with respect to the firm or associated person;

(B) notify such firm or associated person of, and provide to the firm or associated person an opportunity to defend against, such charges; and

(C) keep a record of the proceedings.

(2) PUBLIC HEARINGS.—Hearings under this section shall not be public, unless otherwise ordered by the Board for good cause shown, with the consent of the parties to such hearing.

(3) SUPPORTING STATEMENT.—A determination by the Board to impose a sanction under this subsection shall be supported by a statement setting forth—

(A) each act or practice in which the registered public accounting firm, or associated person, has engaged (or omitted to engage), or that forms a basis for all or a part of such sanction;

(B) the specific provision of this Act, the securities laws, the rules of the Board, or professional standards which the Board determines has been violated; and

(C) the sanction imposed, including a justification for that sanction.

(4) SANCTIONS.—If the Board finds, based on all of the facts and circumstances, that a registered public accounting firm or associated person thereof has engaged in any act or practice, or omitted to act, in violation of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under this Act, or professional standards, the Board may impose such disciplinary or remedial sanctions as it determines appropriate, subject to applicable limitations under paragraph (5), including—

(A) temporary suspension or permanent revocation of registration under this title;

(B) temporary or permanent suspension or bar of a person from further association with any registered public accounting firm;

(C) temporary or permanent limitation on the activities, functions, or operations of such firm or person (other than in connection with required additional professional education or training);

(D) a civil money penalty for each such violation, in an amount equal to—

(i) not more than $100,000 for a natural person or $2,000,000 for any other person; and

(ii) in any case to which paragraph (5) applies, not more than $750,000 for a natural person or $15,000,000 for any other person;

(E) censure;

(F) required additional professional education or training; or

(G) any other appropriate sanction provided for in the rules of the Board.

(5) INTENTIONAL OR OTHER KNOWING CONDUCT.—The sanctions and penalties described in subparagraphs (A) through (C) and (D)(ii) of paragraph (4) shall only apply to—

(A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or

(B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

(6) FAILURE TO SUPERVISE.—

(A) IN GENERAL.—The Board may impose sanctions under this section on a registered accounting firm or upon the supervisory personnel of such firm, if the Board finds that—

(i) the firm has failed reasonably to supervise an associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including

the rules of the Commission under this Act, or professional standards; and

(ii) such associated person commits a violation of this Act, or any of such rules, laws, or standards.

(B) RULE OF CONSTRUCTION.—No associated person of a registered public accounting firm shall be deemed to have failed reasonably to supervise any other person for purposes of subparagraph (A), if—

(i) there have been established in and for that firm procedures, and a system for applying such procedures, that comply with applicable rules of the Board and that would reasonably be expected to prevent and detect any such violation by such associated person; and

(ii) such person has reasonably discharged the duties and obligations incumbent upon that person by reason of such procedures and system, and had no reasonable cause to believe that such procedures and system were not being complied with.

(7) EFFECT OF SUSPENSION.—

(A) ASSOCIATION WITH A PUBLIC ACCOUNTING FIRM.—It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any registered public accounting firm, or for any registered public accounting firm that knew, or, in the exercise of reasonable care should have known, of the suspension or bar, to permit such an association, without the consent of the Board or the Commission.

(B) ASSOCIATION WITH AN ISSUER.—It shall be unlawful for any person that is suspended or barred from being associated with an issuer under this subsection willfully to become or remain associated with any issuer in an accountancy or a financial management capacity, and for any issuer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission.

(d) REPORTING OF SANCTIONS.—

(1) RECIPIENTS.—If the Board imposes a disciplinary sanction, in accordance with this section, the Board shall report the sanction to—

(A) the Commission;

(B) any appropriate State regulatory authority or any foreign accountancy licensing board with which such firm or person is licensed or certified; and

(C) the public (once any stay on the imposition of such sanction has been lifted).

(2) CONTENTS.—The information reported under paragraph (1) shall include—

(A) the name of the sanctioned person;

(B) a description of the sanction and the basis for its imposition; and

(C) such other information as the Board deems appropriate.

(e) STAY OF SANCTIONS.—

(1) IN GENERAL.—Application to the Commission for review, or the institution by the Commission of review, of any disciplinary action of the Board shall operate as a stay of any such disciplinary action, unless and until the Commission orders (summarily or after notice and opportunity for hearing on the question of a stay, which hearing may consist solely of the submission of affidavits or presentation of oral arguments) that no such stay shall continue to operate.

(2) EXPEDITED PROCEDURES.—The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the duration of a stay pending review of any disciplinary action of the Board under this subsection.

SEC. 106. FOREIGN PUBLIC ACCOUNTING FIRMS.

(a) APPLICABILITY TO CERTAIN FOREIGN FIRMS.—

(1) IN GENERAL.—Any foreign public accounting firm that prepares or furnishes an audit report with respect to any issuer, shall be subject to this Act and the rules of the Board and the Commission issued under this Act, in the same manner and to the same extent as a public accounting firm that is organized and operates under the laws of the United States or any State, except that registration pursuant to section 102 shall not by itself provide a basis for subjecting such a foreign public accounting firm to the jurisdiction of the Federal or State courts, other than with respect to controversies between such firms and the Board.

(2) BOARD AUTHORITY.—The Board may, by rule, determine that a foreign public accounting firm (or a class of such firms) that does not issue audit reports nonetheless plays such a substantial role in the preparation and furnishing of such reports for particular issuers, that it is necessary or appropriate, in light of the purposes of this Act and in the public interest or for the protection of investors, that such firm (or class of firms) should be treated as a public accounting firm (or firms) for purposes of registration under, and oversight by the Board in accordance with, this title.

(b) PRODUCTION OF AUDIT WORKPAPERS.—

(1) CONSENT BY FOREIGN FIRMS.—If a foreign public accounting firm issues an opinion or otherwise performs material services upon which a registered public accounting firm relies in issuing all or part of any audit report or any opinion contained in an audit report, that foreign public accounting firm shall be deemed to have consented—

(A) to produce its audit workpapers for the Board or the Commission in connection with any investigation by either body with respect to that audit report; and

(B) to be subject to the jurisdiction of the courts of the United States for purposes of enforcement of any request for production of such workpapers.

(2) CONSENT BY DOMESTIC FIRMS.—A registered public accounting firm that relies upon the opinion of a foreign public accounting firm, as described in paragraph (1), shall be deemed—

(A) to have consented to supplying the audit workpapers of that foreign public accounting firm in response to a request for production by the Board or the Commission; and

(B) to have secured the agreement of that foreign public accounting firm to such production, as a condition of its reliance on the opinion of that foreign public accounting firm.

(c) EXEMPTION AUTHORITY.—The Commission, and the Board, subject to the approval of the Commission, may, by rule, regulation, or order, and as the Commission (or Board) determines necessary or appropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions exempt any foreign public accounting firm, or any class of such firms, from any provision of this Act or the rules of the Board or the Commission issued under this Act.

(d) DEFINITION.—In this section, the term ''foreign public accounting firm'' means a public accounting firm that is organized and operates under the laws of a foreign government or political subdivision thereof.

SEC. 107. COMMISSION OVERSIGHT OF THE BOARD.

(a) GENERAL OVERSIGHT RESPONSIBILITY.—The Commission shall have oversight and enforcement authority over the Board, as provided in this Act.

(b) RULES OF THE BOARD.—

(1) DEFINITION.—In this section, the term ''proposed rule'' means any proposed rule of the Board, and any modification of any such rule.

(2) PRIOR APPROVAL REQUIRED.—No rule of the Board shall become effective without prior approval of the Commission in accordance with this section, other than as provided in section 103(a)(3)(B) with respect to initial or transitional standards.

(3) APPROVAL CRITERIA.—The Commission shall approve a proposed rule, if it finds that the rule is consistent with the requirements of this Act and the securities laws, or is necessary or appropriate in the public interest or for the protection of investors.

(4) PROPOSED RULE PROCEDURES.—The provisions of paragraphs (1) through (3) of section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) shall govern the proposed rules of the Board, as fully as if the Board were a ''registered securities association'' for purposes of that section 19(b), except that, for purposes of this paragraph—

(A) the phrase ''consistent with the requirements of this title and the rules and regulations thereunder applicable to such organization'' in section 19(b)(2) of that Act shall be deemed to read ''consistent with the requirements of title I of the Public Company Accounting Reform and Investor Protection Act of 2002, and the rules and regulations issued thereunder applicable to such organization, or as necessary or appropriate in the public interest or for the protection of investors''; and

(B) the phrase ''otherwise in furtherance of the purposes of this title'' in section 19(b)(3)(C) of that Act shall be deemed to read ''otherwise in furtherance of the purposes of title I of the Public Company Accounting Reform and Investor Protection Act of 2002''.

(5) COMMISSION AUTHORITY TO AMEND RULES OF THE BOARD.—The provisions of section 19(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(c)) shall govern the abrogation, deletion, or addition to portions of the rules of the Board by the Commission as fully as if the Board were a ''registered securities association'' for purposes of that section 19(c), except that the phrase ''to conform its rules to the requirements of this title and the rules and regulations thereunder applicable to such organization, or otherwise in furtherance of the purposes of this title'' in section 19(c) of that Act shall, for purposes of this paragraph, be deemed to read ''to assure the fair administration of the Public Company Accounting Oversight Board, conform the rules promulgated by that Board to the requirements of title I of the Public Company Accounting Reform and Investor Protection Act of 2002, or otherwise further the purposes of that Act, the securities laws, and the rules and regulations thereunder applicable to that Board''.

(c) COMMISSION REVIEW OF DISCIPLINARY ACTION TAKEN BY THE BOARD.—

(1) NOTICE OF SANCTION.—The Board shall promptly file notice with the Commission of any final sanction on any registered public accounting firm or on any associated person thereof, in such form and containing such information as the Commission, by rule, may prescribe.

(2) REVIEW OF SANCTIONS.—The provisions of sections 19(d)(2) and 19(e)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78s (d)(2) and (e)(1)) shall govern the review by the Commission of final disciplinary sanctions imposed by the Board (including sanctions imposed under section 105(b)(3) of this Act for noncooperation in an investigation of the Board), as fully as if the Board were a self-regulatory organization and the Commission were the appropriate regulatory agency for such organization for purposes of those sections 19(d)(2) and 19(e)(1), except that, for purposes of this paragraph—

(A) section 105(e) of this Act (rather than that section 19(d)(2)) shall govern the extent to which application for, or institution by the Commission on its own motion of, review of any disciplinary action of the Board operates as a stay of such action;

(B) references in that section 19(e)(1) to ''members'' of such an organization shall be deemed to be references to registered public accounting firms;

(C) the phrase ''consistent with the purposes of this title'' in that section 19(e)(1) shall be deemed to read ''consistent with the purposes of this title and title I of the Public Company Accounting Reform and Investor Protection Act of 2002'';

(D) references to rules of the Municipal Securities Rulemaking Board in that section 19(e)(1) shall not apply; and

(E) the reference to section 19(e)(2) of the Securities Exchange Act of 1934 shall refer instead to section 107(c)(3) of this Act.

(3) COMMISSION MODIFICATION AUTHORITY.—The Commission may enhance, modify, cancel, reduce, or require the remission of a sanction imposed by the Board upon a registered public accounting firm or associated person thereof, if the Commission, having due regard for the public interest and the protection of investors, finds, after a proceeding in accordance with this subsection, that the sanction—

(A) is not necessary or appropriate in furtherance of this Act or the securities laws; or

(B) is excessive, oppressive, inadequate, or otherwise not appropriate to the finding or the basis on which the sanction was imposed.

(d) CENSURE OF THE BOARD; OTHER SANCTIONS.—

(1) RESCISSION OF BOARD AUTHORITY.—The Commission, by rule, consistent with the public interest, the protection of investors, and the other purposes of this Act and the securities laws, may relieve the Board of any responsibility to enforce compliance with any provision of this Act, the securities laws, the rules of the Board, or professional standards.

(2) CENSURE OF THE BOARD; LIMITATIONS.—The Commission may, by order, as it determines necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, censure or impose limitations upon the activities, functions, and operations of the Board, if the Commission finds, on the record, after notice and opportunity for a hearing, that the Board—

(A) has violated or is unable to comply with any provision of this Act, the rules of the Board, or the securities laws; or

(B) without reasonable justification or excuse, has failed to enforce compliance with any such provision or rule, or any professional standard by a registered public accounting firm or an associated person thereof.

(3) CENSURE OF BOARD MEMBERS; REMOVAL FROM OFFICE.—The Commission may, as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, remove from office or censure any member of the Board, if the Commission finds, on the record, after notice and opportunity for a hearing, that such member—

(A) has willfully violated any provision of this Act, the rules of the Board, or the securities laws;

(B) has willfully abused the authority of that member; or

(C) without reasonable justification or excuse, has failed to enforce compliance with any such provision or rule, or any professional standard by any registered public accounting firm or any associated person thereof.

SEC. 108. ACCOUNTING STANDARDS.

(a) AMENDMENT TO SECURITIES ACT OF 1933.—Section 19 of the Securities Act of 1933 (15 U.S.C. 77s) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

''(b) RECOGNITION OF ACCOUNTING STANDARDS.—

''(1) IN GENERAL.—In carrying out its authority under subsection (a) and under section 13(b) of the Securities Exchange Act of 1934, the Commission may recognize, as 'generally accepted' for purposes of the securities laws, any accounting principles established by a standard setting body—

''(A) that—

''(i) is organized as a private entity;

''(ii) has, for administrative and operational purposes, a board of trustees (or equivalent body) serving in the public interest, the majority of whom are not, concurrent with their service on such board, and have not been during the 2-year period preceding such service, associated persons of any registered public accounting firm;

''(iii) is funded as provided in section 109 of the Public Company Accounting Reform and Investor Protection Act of 2002;

''(iv) has adopted procedures to ensure prompt consideration, by majority vote of its members, of changes to accounting principles necessary to reflect emerging accounting issues and changing business practices;

''(v) considers, in adopting accounting principles, the need to keep standards current in order to reflect changes in the business environment, the extent to which international convergence on high quality accounting standards is necessary or appropriate in the public interest and for the protection of investors; and

''(B) that the Commission determines has the capacity to assist the Commission in fulfilling the requirements of subsection (a) and section 13(b) of the Securities Exchange Act of 1934, because, at a minimum, the standard setting body is capable of improving the accuracy and effectiveness of financial reporting and the protection of investors under the securities laws.

''(2) ANNUAL REPORT.—A standard setting body described in paragraph (1) shall submit an annual report to the Commission and the public, containing audited financial statements of that standard setting body.''.

(b) COMMISSION AUTHORITY.—The Commission shall promulgate such rules and regulations to carry out section 19(b) of the Securities Act of 1933, as added by this section, as it deems necessary or appropriate in the public interest or for the protection of investors.

(c) NO EFFECT ON COMMISSION POWERS.—Nothing in this Act, including this section and the amendment made by this section, shall be construed to impair or limit the authority of the Commission to establish accounting principles or standards for purposes of enforcement of the securities laws.

(d) STUDY AND REPORT ON ADOPTING PRINCIPLES-BASED ACCOUNTING.—

(1) STUDY.—

(A) IN GENERAL.—The Commission shall conduct a study on the adoption by the United States financial reporting system of a principles-based accounting system.

(B) STUDY TOPICS.—The study required by subparagraph (A) shall include an examination of—

(i) the extent to which principles-based accounting and financial reporting exists in the United States;

(ii) the length of time required for change from a rules-based to a principles-based financial reporting system;

(iii) the feasibility of and proposed methods by which a principles-based system may be implemented; and

(iv) a thorough economic analysis of the implementation of a principles-based system.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the results of the study required by paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 109. FUNDING.

(a) IN GENERAL.—The Board, and the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933, as amended by section 108, shall be funded as provided in this section.

(b) ANNUAL BUDGETS.—The Board and the standard setting body referred to in subsection (a) shall each establish a budget for each fiscal year, which shall be reviewed and approved according to their respective internal procedures not less than 1 month prior to the commencement of the fiscal year to which the budget pertains. The budget of the Board shall be subject to approval by the Commission.

(c) SOURCES AND USES OF FUNDS.—

(1) RECOVERABLE BUDGET EXPENSES.—The budget of the Board (reduced by any registration or annual fees received under section 102(e) for the year preceding the year for which the budget is being computed), and all of the budget of the standard setting body referred to in subsection (a), for each fiscal year of each of those 2 entities, shall be payable from annual accounting support fees, in accordance with subsections (d) and (e).

(2) FUNDS GENERATED FROM THE COLLECTION OF MONETARY PENALTIES.—Subject to the availability in advance in an appropriations Act, and notwithstanding subsection (h), all funds collected by the Board as a result of the assessment of monetary penalties shall be used to fund a merit scholarship program for undergraduate and graduate students enrolled in accredited accounting degree programs, which program is to be administered by the Board or by an entity or agent identified by the Board.

(d) ANNUAL ACCOUNTING SUPPORT FEE FOR THE BOARD.—

(1) ESTABLISHMENT OF FEE.—The Board shall establish, with the approval of the Commission, a reasonable annual accounting support fee (or a formula for the computation thereof), as may be necessary or appropriate to establish and maintain the Board.

(2) ASSESSMENTS.—The rules of the Board under paragraph (1) shall provide for the equitable allocation, assessment, and collection by the Board (or an agent appointed by the Board) of the fee established under paragraph (1), among issuers, in accordance with subsection (f), allowing for differentiation among classes of issuers, as appropriate.

(e) ANNUAL ACCOUNTING SUPPORT FEE FOR STANDARD SETTING BODY.—The annual accounting support fee for the standard setting body referred to in subsection (a)—

(1) shall be allocated in accordance with subsection (f), and assessed and collected against each issuer, on behalf of the standard setting body, by 1 or more appropriate designated collection agents, as may be necessary or appropriate to pay for the budget and provide for the expenses of that standard setting body, and to provide for an independent, stable source of funding for such body, subject to review by the Commission; and

(2) may differentiate among different classes of issuers.

(f) ALLOCATION OF ACCOUNTING SUPPORT FEES AMONG ISSUERS.—Any amount due from issuers (or a particular class of issuers) under this section to fund the budget of the Board or the standard setting body referred to in subsection (a) shall be allocated among and payable by each issuer (or each issuer in a particular class, as applicable) in an amount equal to the total of such amount, multiplied by a fraction—

(1) the numerator of which is the average monthly equity market capitalization of the issuer for the 12-month period immediately preceding the beginning of the fiscal year to which such budget relates; and

(2) the denominator of which is the average monthly equity market capitalization of all such issuers for such 12-month period.

(g) CONFORMING AMENDMENTS.—Section 13(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)(2)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting the following: ''; and

''(C) notwithstanding any other provision of law, pay the allocable share of such issuer of a reasonable annual accounting support fee or fees, determined in accordance with section 109 of the Public Company Accounting Reform and Investor Protection Act of 2002.''.

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to render either the

Board, the standard setting body referred to in subsection (a), or both, subject to procedures in Congress to authorize or appropriate public funds, or to prevent such organization from utilizing additional sources of revenue for its activities, such as earnings from publication sales, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual and perceived independence of such organization.

TITLE II—AUDITOR INDEPENDENCE

SEC. 201. SERVICES OUTSIDE THE SCOPE OF PRACTICE OF AUDITORS.

(a) PROHIBITED ACTIVITIES.—Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1) is amended by adding at the end the following:

''(g) PROHIBITED ACTIVITIES.—It shall be unlawful for a registered public accounting firm (and any associated person of that firm, to the extent determined appropriate by the Commission) that performs for any issuer any audit required by this title or the rules of the Commission under this title or, beginning 180 days after the date of commencement of the operations of the Public Company Accounting Oversight Board established under section 101 of the Public Company Accounting Reform and Investor Protection Act of 2002 (in this section referred to as the 'Board'), the rules of the Board, to provide to that issuer, contemporaneously with the audit, any non-audit service, including—

''(1) bookkeeping or other services related to the accounting records or financial statements of the audit client;

''(2) financial information systems design and implementation;

''(3) appraisal or valuation services, fairness opinions, or contribution-in-kind reports;

''(4) actuarial services;

''(5) internal audit outsourcing services;

''(6) management functions or human resources;

''(7) broker or dealer, investment adviser, or investment banking services;

''(8) legal services and expert services unrelated to the audit; and

''(9) any other service that the Board determines, by regulation, is impermissible.

''(h) PREAPPROVAL REQUIRED FOR NON-AUDIT SERVICES.—A registered public accounting firm may engage in any non-audit service, including tax services, that is not described in any of paragraphs (1) through (9) of subsection (g) for an audit client, only if the activity is approved in advance by the audit committee of the issuer, in accordance with subsection (i).''.

(b) EXEMPTION AUTHORITY.—The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107.

SEC. 202. PREAPPROVAL REQUIREMENTS.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1), as amended by this Act, is amended by adding at the end the following:

''(i) PREAPPROVAL REQUIREMENTS.—

''(1) IN GENERAL.—

''(A) AUDIT COMMITTEE ACTION.—All auditing services (which may entail providing comfort letters in connection with securities underwritings) and non-audit services, other than as provided in subparagraph (B), provided to an issuer by the auditor of the issuer shall be preapproved by the audit committee of the issuer.

''(B) DE MINIMUS EXCEPTION.—The preapproval requirement under subparagraph (A) is waived with respect to the provision of non-audit services for an issuer, if—

''(i) the aggregate amount of all such non-audit services provided to the issuer constitutes not more than 5 percent of the total amount of revenues paid by the issuer to its auditor;

''(ii) such services were not recognized by the issuer at the time of the engagement to be non-audit services; and

''(iii) such services are promptly brought to the attention of the audit committee of the issuer and approved by the audit committee prior to the completion of the audit, by 1 or more members of the audit committee who are members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

''(2) DISCLOSURE TO INVESTORS.—Approval by an audit committee of an issuer under this subsection of a non-audit service to be performed by the auditor of the issuer shall be disclosed to investors in periodic reports required by section 13(a).

''(3) DELEGATION AUTHORITY.—The audit committee of an issuer may delegate to 1 or more designated members of the audit committee who are independent directors of the board of directors, the authority to grant preapprovals required by this subsection. The decisions of any member to whom authority is delegated under this paragraph to preapprove an activity under this subsection shall be presented to the full audit committee at each of its scheduled meetings.

''(4) APPROVAL OF AUDIT SERVICES FOR OTHER PURPOSES.—In carrying out its duties under subsection (m)(2), if the audit committee of an issuer approves an audit service within the scope of the engagement of the auditor, such audit service shall be deemed to have been preapproved for purposes of this subsection.''.

SEC. 203. AUDIT PARTNER ROTATION.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1), as amended by this Act, is amended by adding at the end the following:

''(j) AUDIT PARTNER ROTATION.—It shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the lead audit partner (having primary responsibility for the audit) or the audit partner responsible for reviewing the audit that is assigned to perform those audit services has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer.''.

SEC. 204. AUDITOR REPORTS TO AUDIT COMMITTEES.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1), as amended by this Act, is amended by adding at the end the following:

''(k) REPORTS TO AUDIT COMMITTEES.—Each registered public accounting firm that performs for any issuer any audit required by this title shall timely report to the audit committee of the issuer—

''(1) all critical accounting policies and practices to be used;

''(2) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of the issuer, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the registered public accounting firm; and

''(3) other material written communications between the registered public accounting firm and the management of the issuer, such as any management letter or schedule of unadjusted differences.''.

SEC. 205. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following:

''(58) AUDIT COMMITTEE.—The term 'audit committee' means—

''(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer; and

''(B) if no such committee exists with respect to an issuer, the entire board of directors of the issuer.

''(59) REGISTERED PUBLIC ACCOUNTING FIRM.—The term 'registered public accounting firm' has the same meaning as in section 3 of the Public Company Accounting Reform and Investor Protection Act of 2002.''.

(b) AUDITOR REQUIREMENTS.—Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1) is amended—

(1) by striking ''an independent public accountant'' each place that term appears and inserting ''a registered public accounting firm'';

(2) by striking ''the independent public accountant'' each place that term appears and inserting ''the registered public accounting firm'';

(3) in subsection (c), by striking ''No independent public accountant'' and inserting ''No registered public accounting firm''; and

(4) in subsection (b)—

(A) by striking ''the accountant'' each place that term appears and inserting ''the firm'';

(B) by striking ''such accountant'' each place that term appears and inserting ''such firm''; and

(C) in paragraph (4), by striking ''the accountant's report'' and inserting ''the report of the firm''.

(c) OTHER REFERENCES.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in section 12(b)(1) (15 U.S.C. 78l(b)(1)), by striking ''independent public accountants'' each place that term appears and inserting ''a registered public accounting firm''; and

(2) in subsections (e) and (i) of section 17 (15 U.S.C. 78q), by striking ''an independent public accountant'' each place that term appears and inserting ''a registered public accounting firm''.

(d) CONFORMING AMENDMENT.—Section 10A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(f)) is amended—

(1) by striking ''DEFINITION'' and inserting ''DEFINITIONS''; and

(2) by adding at the end the following: ''As used in this section, the term 'issuer' means an issuer (as defined in section 3), the securities of which are registered under section 12, or that is required to file reports pursuant to section 15(d), or that will be required to file such reports at the end of a fiscal year of the issuer in which a registration statement filed by such issuer has become effective pursuant to the Securities Act of 1933 (15 U.S.C. 77a et. seq.), unless its securities are registered under section 12 of this title on or before the end of such fiscal year.''.

SEC. 206. CONFLICTS OF INTEREST.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1), as amended by this Act, is amended by adding at the end the following:

''(l) CONFLICTS OF INTEREST.—It shall be unlawful for a registered public accounting firm to perform for an issuer any audit service required by this title, if a chief executive officer, controller, chief financial officer, chief accounting officer or any person serving in an equivalent position for the issuer was employed by that registered independent public accounting firm and participated in any capacity in the audit of that issuer during the 1-year period preceding the date of the initiation of the audit.''.

SEC. 207. STUDY OF MANDATORY ROTATION OF REGISTERED PUBLIC ACCOUNTING FIRMS.

(a) STUDY AND REVIEW REQUIRED.—The Comptroller General of the United States shall conduct a study and review of the potential effects of requiring the mandatory rotation of registered public accounting firms.

(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study and review required by this section.

(c) DEFINITION.—For purposes of this section, the term ''mandatory rotation'' refers to the imposition of a limit on the period of years in

which a particular registered public accounting firm may be the auditor of record for a particular issuer.

SEC. 208. COMMISSION AUTHORITY.

(a) COMMISSION REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Commission shall issue final regulations to carry out each of subsections (g) through (l) of section 10A of the Securities Exchange Act of 1934, as added by this title.

(b) AUDITOR INDEPENDENCE.—It shall be unlawful for any registered public accounting firm (or an associated person thereof, as applicable) to prepare or issue any audit report with respect to any issuer, if the firm or associated person engages in any activity with respect to that issuer prohibited by any of subsections (g) through (l) of section 10A of the Securities Exchange Act of 1934, as added by this title, or any rule or regulation of the Commission or of the Board issued thereunder.

SEC. 209. CONSIDERATIONS BY APPROPRIATE STATE REGULATORY AUTHORITIES.

In supervising nonregistered public accounting firms and their associated persons, appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The standards applied by the Board under this Act should not be presumed to be applicable for purposes of this section for small and medium sized nonregistered public accounting firms.

TITLE III—CORPORATE RESPONSIBILITY

SEC. 301. PUBLIC COMPANY AUDIT COMMITTEES.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding at the end the following:

''(m) STANDARDS RELATING TO AUDIT COMMITTEES.—

''(1) COMMISSION RULES.—

''(A) IN GENERAL.—Effective not later than 270 days after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any portion of paragraphs (2) through (6).

''(B) OPPORTUNITY TO CURE DEFECTS.—The rules of the Commission under subparagraph (A) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

''(2) RESPONSIBILITIES RELATING TO REGISTERED PUBLIC ACCOUNTING FIRMS.—The audit committee of each issuer, in its capacity as a committee of the board of directors, shall be directly responsible for the appointment, compensation, and oversight of the work of any registered public accounting firm employed by that issuer (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or related work, and each such registered public accounting firm shall report directly to the audit committee.

''(3) INDEPENDENCE.—

''(A) IN GENERAL.—Each member of the audit committee of the issuer shall be a member of the board of directors of the issuer, and shall otherwise be independent.

''(B) CRITERIA.—In order to be considered to be independent for purposes of this paragraph, a member of an audit committee of an issuer may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee—

''(i) accept any consulting, advisory, or other compensatory fee from the issuer; or

''(ii) be an affiliated person of the issuer or any subsidiary thereof.

''(C) EXEMPTION AUTHORITY.—The Commission may exempt from the requirements of subparagraph (B) a particular relationship with respect to audit committee members, as the Commission determines appropriate in light of the circumstances.

''(4) COMPLAINTS.—Each audit committee shall establish procedures for—

''(A) the receipt, retention, and treatment of complaints received by the issuer regarding accounting, internal accounting controls, or auditing matters; and

''(B) the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters.

''(5) AUTHORITY TO ENGAGE ADVISERS.—Each audit committee shall have the authority to engage independent counsel and other advisers, as it determines necessary to carry out its duties.

''(6) FUNDING.—Each issuer shall provide for appropriate funding, as determined by the audit committee, in its capacity as a committee of the board of directors, for payment of compensation—

''(A) to the registered public accounting firm employed by the issuer for the purpose of rendering or issuing an audit report; and

''(B) to any advisers employed by the audit committee under paragraph (5).''.

SEC. 302. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) CERTIFICATION OF PERIODIC REPORTS.—Each periodic report containing financial statements filed by an issuer with the Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934, shall be accompanied by a written statement by the chief executive officer and chief financial officer (or the equivalent thereof) of the issuer.

(b) CONTENT.—The statement required by subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

(c) FOREIGN REINCORPORATIONS HAVE NO EFFECT.—Nothing in this section 302 shall be interpreted or applied in any way to allow any issuer to lessen the legal force of the statement required under this section 302, by an issuer having reincorporated or having engaged in any other transaction that resulted in the transfer of the corporate domicile or offices of the issuer from inside the United States to outside of the United States.

SEC. 303. IMPROPER INFLUENCE ON CONDUCT OF AUDITS.

(a) RULES TO PROHIBIT.—It shall be unlawful, in contravention of such rules or regulations as the Commission shall prescribe as necessary and appropriate in the public interest or for the protection of investors, for any officer or director of an issuer, or any other person acting under the direction thereof, to take any action to fraudulently influence, coerce, manipulate, or mislead any independent public or certified accountant engaged in the performance of an audit of the financial statements of that issuer for the purpose of rendering such financial statements materially misleading.

(b) ENFORCEMENT.—In any civil proceeding, the Commission shall have exclusive authority to enforce this section and any rule or regulation issued under this section.

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

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

(1) propose the rules or regulations required by this section, not later than 90 days after the date of enactment of this Act; and

(2) issue final rules or regulations required by this section, not later than 270 days after that date of enactment.

SEC. 304. FORFEITURE OF CERTAIN BONUSES AND PROFITS.

(a) ADDITIONAL COMPENSATION PRIOR TO NONCOMPLIANCE WITH COMMISSION FINANCIAL REPORTING REQUIREMENTS.—If an issuer is required to prepare an accounting restatement due to the material noncompliance of the issuer, as a result of misconduct, with any financial reporting requirement under the securities laws, the chief executive officer and chief financial officer of the issuer shall reimburse the issuer for—

(1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing with the Commission (whichever first occurs) of the financial document embodying such financial reporting requirement; and

(2) any profits realized from the sale of securities of the issuer during that 12-month period.

(b) COMMISSION EXEMPTION AUTHORITY.—The Commission may exempt any person from the application of subsection (a), as it deems necessary and appropriate.

SEC. 305. OFFICER AND DIRECTOR BARS AND PENALTIES.

(a) UNFITNESS STANDARD.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(2)) is amended by striking ''substantial unfitness'' and inserting ''unfitness''.

(2) SECURITIES ACT OF 1933.—Section 20(e) of the Securities Act of 1933 (15 U.S.C. 77t(e)) is amended by striking ''substantial unfitness'' and insert ''unfitness''.

(b) EQUITABLE RELIEF.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) EQUITABLE RELIEF.—In any action or proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may grant, any equitable relief that may be appropriate or necessary for the benefit of investors.''.

SEC. 306. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS PROHIBITED.

(a) PROHIBITION.—It shall be unlawful for any director or executive officer of an issuer of any equity security (other than an exempted security), directly or indirectly, to purchase, sell, or otherwise acquire or transfer any equity security of the issuer (other than an exempted security), during any blackout period with respect to such equity security, in accordance with any exception provided by rule of the Commission pursuant to subsection (d).

(b) EFFECTIVENESS.—

(1) NOTICE REQUIREMENTS.—Except as provided in paragraph (2), no blackout period may take effect earlier than 30 days after the date on which written notice of such blackout period is provided by the plan administrator to the participants or beneficiaries.

(2) EXCEPTION.—The 30-day notice requirement in paragraph (1) shall not apply, and notice under paragraph (1) shall be furnished as soon as is reasonably possible, in any case in which—

(A) a deferral of the blackout period would violate the requirements of subparagraph (A) or (B) of section 404(a)(1) of the Employment Retirement Income Security Act of 1974, and a fiduciary of the plan so reasonably determines in writing; or

(B) the inability to provide the 30-day notice is due to events that were unforeseeable, or circumstances beyond the reasonable control of the plan administrator, and a fiduciary of the plan so reasonably determines in writing.

(3) WRITTEN NOTICE.—The notice required to be provided under paragraph (1) shall be in writing, except that such notice may be in electronic form to the extent that such form is reasonably accessible to the recipient.

(c) REMEDY.—

(1) IN GENERAL.—Any profit realized by a director or executive officer referred to in subsection (a) from any purchase, sale, or other acquisition or transfer in violation of this section shall inure to and be recoverable by the issuer, irrespective of any intention on the part of such director or executive officer in entering into the transaction.

(2) ACTIONS TO RECOVER PROFITS.—An action to recover profits in accordance with this section may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer fails or refuses to bring such action within 60 days after the date of request, or fails diligently to prosecute the action thereafter, except that no such suit shall be brought more than 2 years after the date on which such profit was realized.

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

(e) DEFINITIONS.—For purposes of this section—

(1) the term ''blackout period'', with respect to the equity securities of any issuer—

(A) means any period during which the ability of not fewer than 50 percent of the participants or beneficiaries under all applicable individual account plans maintained by the issuer to purchase, sell, or otherwise acquire or transfer an interest in any equity of such issuer held in such an individual account plan, is suspended by the issuer or a fiduciary of the plan; and

(B) does not include—

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

(I) incorporated into the individual account plan; and

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

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

(2) the term ''individual account plan'' has the same meaning as in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)).

TITLE IV—ENHANCED FINANCIAL DISCLOSURES

SEC. 401. DISCLOSURES IN PERIODIC REPORTS.

(a) DISCLOSURES REQUIRED.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

''(i) ACCURACY OF FINANCIAL REPORTS.—Each financial report that is required to be prepared in accordance with generally accepted accounting principles under this title and filed with the Commission shall reflect all material correcting adjustments that have been identified by a registered public accounting firm in accordance with generally accepted accounting principles and the rules and regulations of the Commission.

''(j) OFF-BALANCE SHEET TRANSACTIONS.—Not later than 180 days after the date of enactment of the Public Company Accounting Reform and Investor Protection Act of 2002, the Commission shall issue final rules providing that each annual and quarterly financial report required to be filed with the Commission shall disclose all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the issuer with unconsolidated entities or other persons, that may have a material current or future effect on financial condition, changes in financial condition, results of operations, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses.''.

(b) COMMISSION RULES ON PRO FORMA FIGURES.—Not later than 180 days after the date of enactment of this Act, the Commission shall issue final rules providing that pro forma financial information included in any periodic or other report filed with the Commission pursuant to the securities laws, or in any public disclosure or press or other release, shall be presented in a manner that—

(1) does not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the pro forma financial information, in light of the circumstances under which it is presented, not misleading; and

(2) reconciles it with the financial condition and results of operations of the issuer under generally accepted accounting principles.

(c) STUDY AND REPORT ON SPECIAL PURPOSE ENTITIES.—

(1) STUDY REQUIRED.—The Commission shall, not later than 1 year after the effective date of adoption of off-balance sheet disclosure rules required by section 13(j) of the Securities Exchange Act of 1934, as added by this section, complete a study of filings by issuers and their disclosures to determine—

(A) the extent of off-balance sheet transactions, including assets, liabilities, leases, losses, and the use of special purpose entities; and

(B) whether generally accepted accounting rules result in financial statements of issuers reflecting the economics of such off-balance sheet transactions to investors in a transparent fashion.

(2) REPORT AND RECOMMENDATIONS.—Not later than 6 months after the date of completion of the study required by paragraph (1), the Commission shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, setting forth—

(A) the amount or an estimate of the amount of off-balance sheet transactions, including assets, liabilities, leases, and losses of, and the use of special purpose entities by, issuers filing periodic reports pursuant to section 13 or 15 of the Securities Exchange Act of 1934;

(B) the extent to which special purpose entities are used to facilitate off-balance sheet transactions;

(C) whether generally accepted accounting principles or the rules of the Commission result in financial statements of issuers reflecting the economics of such transactions to investors in a transparent fashion;

(D) whether generally accepted accounting principles specifically result in the consolidation of special purpose entities sponsored by an issuer in cases in which the issuer has the majority of the risks and rewards of the special purpose entity; and

(E) any recommendations of the Commission for improving the transparency and quality of reporting off-balance sheet transactions in the financial statements and disclosures required to be filed by an issuer with the Commission.

SEC. 402. ENHANCED CONFLICT OF INTEREST PROVISIONS.

(a) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

''(k) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—

''(1) IN GENERAL.—It shall be unlawful for any issuer, directly or indirectly, to extend or maintain credit, or arrange for the extension of credit, in the form of a personal loan to or for any director or executive officer (or equivalent thereof) of that issuer.

''(2) LIMITATION.—Paragraph (1) does not preclude any home improvement and manufactured home loans (as that term is defined in section 5 of the Home Owners Loan Act), consumer credit (as defined in section 103 of the Truth in Lending Act), or any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), that is—

''(A) made in the ordinary course of the consumer credit business of such issuer;

''(B) of a type that is generally made available by such issuer to the public; and

''(C) made by such issuer on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such loans.''.

SEC. 403. DISCLOSURES OF TRANSACTIONS INVOLVING MANAGEMENT AND PRINCIPAL STOCKHOLDERS.

Section 16(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78p(a)) is amended—

(1) by striking ''security, shall file,'' and inserting the following:

''(1) shall file''; and

(2) by striking ''beneficial owner, and'' and all that follows through the end of the subsection and inserting the following: ''beneficial owner; and

''(2) if there has been a change in such ownership, or if such person shall have purchased or sold a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving such equity security, shall file with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement before the end of the second business day following the day on which the subject transaction has been executed, or at such other time as the Commission shall establish, by rule, in any case in which the Commission determines that such 2-day period is not feasible, indicating ownership by that person at the date of filing, any such changes in such ownership, and such purchases and sales of the security-based swap agreements as have occurred since the most recent such filing under this paragraph.''.

SEC. 404. MANAGEMENT ASSESSMENT OF INTERNAL CONTROLS.

(a) RULES REQUIRED.—The Commission shall prescribe rules requiring each annual report required by section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) to contain an internal control report, which shall—

(1) state the responsibility of management for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

(2) contain an assessment, as of the end of the most recent fiscal year of the issuer, of the effectiveness of the internal control structure and procedures of the issuer for financial reporting.

(b) INTERNAL CONTROL EVALUATION AND REPORTING.—With respect to the internal control assessment required by subsection (a), each registered public accounting firm that prepares or issues the audit report for the issuer shall attest to, and report on, the assessment made by the management of the issuer. An attestation made under this subsection shall be made in accordance with standards for attestation engagements issued or adopted by the Board. Any such attestation shall not be the subject of a separate engagement.

SEC. 405. EXEMPTION.

Nothing in section 401, 402, or 404, the amendments made by those sections, or the rules of the Commission under those sections shall apply to any investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).

SEC. 406. CODE OF ETHICS FOR SENIOR FINANCIAL OFFICERS.

(a) CODE OF ETHICS DISCLOSURE.—The Commission shall issue rules to require each issuer,

together with periodic reports required pursuant to sections 13(a) and 15(d) of the Securities Exchange Act of 1934, to disclose whether or not, and if not, the reason therefor, such issuer has adopted a code of ethics for senior financial officers, applicable to its principal financial officer, comptroller or principal accounting officer, or persons performing similar functions.

(b) CHANGES IN CODES OF ETHICS.—The Commission shall revise its regulations concerning matters requiring prompt disclosure on Form 8–K (or any successor thereto) to require the immediate disclosure, by means of the filing of such form, dissemination by the Internet or by other electronic means, by any issuer of any change in or waiver of the code of ethics of the issuer.

(c) DEFINITION.—In this section, the term ''code of ethics'' means such standards as are reasonably necessary to promote—

(1) honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;

(2) full, fair, accurate, timely, and understandable disclosure in the periodic reports required to be filed by the issuer; and

(3) compliance with applicable governmental rules and regulations.

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

(1) propose rules to implement this section, not later than 90 days after the date of enactment of this Act; and

(2) issue final rules to implement this section, not later than 180 days after that date of enactment.

SEC. 407. DISCLOSURE OF AUDIT COMMITTEE FINANCIAL EXPERT.

(a) RULES DEFINING ''FINANCIAL EXPERT''.—The Commission shall issue rules, as necessary or appropriate in the public interest and consistent with the protection of investors, to require each issuer, together with periodic reports required pursuant to sections 13(a) and 15(d) of the Securities Exchange Act of 1934, to disclose whether or not, and if not, the reasons therefor, the audit committee of that issuer is comprised of at least 1 member who is a financial expert, as such term is defined by the Commission.

(b) CONSIDERATIONS.—In defining the term ''financial expert'' for purposes of subsection (a), the Commission shall consider whether a person has, through education and experience as a public accountant or auditor or a principal financial officer, comptroller, or principal accounting officer of an issuer, or from a position involving the performance of similar functions—

(1) an understanding of generally accepted accounting principles and financial statements;

(2) experience in—

(A) the preparation or auditing of financial statements of generally comparable issuers; and

(B) the application of such principles in connection with the accounting for estimates, accruals, and reserves;

(3) experience with internal accounting controls; and

(4) an understanding of audit committee functions.

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

(1) propose rules to implement this section, not later than 90 days after the date of enactment of this Act; and

(2) issue final rules to implement this section, not later than 180 days after that date of enactment.

TITLE V—ANALYST CONFLICTS OF INTEREST

SEC. 501. TREATMENT OF SECURITIES ANALYSTS BY REGISTERED SECURITIES ASSOCIATIONS.

(a) RULES REGARDING SECURITIES ANALYSTS.—Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by adding at the end the following:

''(n) RULES REGARDING SECURITIES ANALYSTS.—

''(1) ANALYST PROTECTIONS.—The Commission, or upon the authorization and direction of the Commission, a registered securities association or national securities exchange, shall have adopted, not later than 1 year after the date of enactment of this subsection, rules reasonably designed to address conflicts of interest that can arise when research analysts recommend equity securities in research reports and public appearances, in order to improve the objectivity of research and provide investors with more useful and reliable information, including rules designed—

''(A) to foster greater public confidence in securities research, and to protect the objectivity and independence of securities analysts, by—

''(i) restricting the prepublication clearance or approval of research reports by persons employed by the broker or dealer who are engaged in investment banking activities, or persons not directly responsible for investment research, other than legal or compliance staff;

''(ii) limiting the supervision and compensatory evaluation of securities analysts to officials employed by the broker or dealer who are not engaged in investment banking activities; and

''(iii) requiring that a broker or dealer and persons employed by a broker or dealer who are involved with investment banking activities may not, directly or indirectly, retaliate against or threaten to retaliate against any securities analyst employed by that broker or dealer or its affiliates as a result of an adverse, negative, or otherwise unfavorable research report that may adversely affect the present or prospective investment banking relationship of the broker or dealer with the issuer that is the subject of the research report, except that such rules may not limit the authority of a broker or dealer to discipline a securities analyst for causes other than such research report in accordance with the policies and procedures of the firm;

''(B) to define periods during which brokers or dealers who have participated, or are to participate, in a public offering of securities as underwriters or dealers should not publish or otherwise distribute research reports relating to such securities or to the issuer of such securities;

''(C) to establish structural and institutional safeguards within registered brokers or dealers to assure that securities analysts are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of those whose involvement in investment banking activities might potentially bias their judgment or supervision; and

''(D) to address such other issues as the Commission, or such association or exchange, determines appropriate.

''(2) DISCLOSURE.—The Commission, or upon the authorization and direction of the Commission, a registered securities association or national securities exchange, shall have adopted, not later than 1 year after the date of enactment of this subsection, rules reasonably designed to require each securities analyst to disclose in public appearances, and each registered broker or dealer to disclose in each research report, as applicable, conflicts of interest that are known or should have been known by the securities analyst or the broker or dealer, to exist at the time of the appearance or the date of distribution of the report, including—

''(A) the extent to which the securities analyst has debt or equity investments in the issuer that is the subject of the appearance or research report;

''(B) whether any compensation has been received by the registered broker or dealer, or any affiliate thereof, including the securities analyst, from the issuer that is the subject of the appearance or research report, subject to such exemptions as the Commission may determine appropriate and necessary to prevent disclosure by virtue of this subparagraph of material nonpublic information regarding specific potential future investment banking transactions of such issuer, as is appropriate in the public interest and consistent with the protection of investors;

''(C) whether an issuer, the securities of which are recommended in the appearance or research report, currently is, or during the 1-year period preceding the date of the appearance or date of distribution of the report has been, a client of the registered broker or dealer, and if so, stating the types of services provided to the issuer;

''(D) whether the securities analyst received compensation with respect to a research report, based upon (among any other factors) the investment banking revenues (either generally or specifically earned from the issuer being analyzed) of the registered broker or dealer; and

''(E) such other disclosures of conflicts of interest that are material to investors, research analysts, or the broker or dealer as the Commission, or such association or exchange, determines appropriate.

''(3) DEFINITIONS.—In this subsection—

''(A) the term 'securities analyst' means any associated person of a registered broker or dealer that is principally responsible for, and any associated person who reports directly or indirectly to a securities analyst in connection with, the preparation of the substance of a research report, whether or not any such person has the job title of 'securities analyst'; and

''(B) the term 'research report' means a written or electronic communication that includes an analysis of equity securities of individual companies or industries, and that provides information reasonably sufficient upon which to base an investment decision.''.

(b) ENFORCEMENT.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended by inserting ''15A(n),'' before ''15B''.

(c) COMMISSION AUTHORITY.—The Commission may promulgate and amend its regulations, or direct a registered securities association or national securities exchange to promulgate and amend its rules, to carry out section 15A(n) of the Securities Exchange Act of 1934, as added by this section, as is necessary for the protection of investors and in the public interest.

TITLE VI—COMMISSION RESOURCES AND AUTHORITY

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

''SEC. 35. AUTHORIZATION OF APPROPRIATIONS.

''In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission, $776,000,000 for fiscal year 2003, of which—

''(1) $102,700,000 shall be available to fund additional compensation, including salaries and benefits, as authorized in the Investor and Capital Markets Fee Relief Act (Public Law 107–123; 115 Stat. 2390 et seq.);

''(2) $108,400,000 shall be available for information technology, security enhancements, and recovery and mitigation activities in light of the terrorist attacks of September 11, 2001; and

''(3) $98,000,000 shall be available to add not fewer than an additional 200 qualified professionals to provide enhanced oversight of auditors and audit services required by the Federal securities laws, and to improve Commission investigative and disciplinary efforts with respect to such auditors and services, as well as for additional professional support staff necessary to strengthen the programs of the Commission involving Full Disclosure and Prevention and Suppression of Fraud, risk management, industry technology review, compliance, inspections, examinations, market regulation, and investment management.''.

SEC. 602. APPEARANCE AND PRACTICE BEFORE THE COMMISSION.

(a) IN GENERAL.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 4B the following:

"SEC. 4C. APPEARANCE AND PRACTICE BEFORE THE COMMISSION.

''(a) AUTHORITY TO CENSURE.—The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found by the Commission, after notice and opportunity for hearing in the matter—

''(1) not to possess the requisite qualifications to represent others;

''(2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or

''(3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

''(b) DEFINITION.—With respect to any registered public accounting firm, for purposes of this section, the term 'improper professional conduct' means—

''(1) intentional or knowing conduct, including reckless conduct, that results in a violation of applicable professional standards; and

''(2) negligent conduct in the form of—

''(A) a single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which the registered public accounting firm knows, or should know, that heightened scrutiny is warranted; or

''(B) repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission.

''(c) STUDY AND REPORT.—(1) The Commission shall conduct a study to determine based upon information for the period from January 1, 1998 to December 31, 2001—

''(A) the number of 'securities professionals', which term shall mean public accountants, public accounting firms, investment bankers, investment advisers, brokers, dealers, attorneys, and other securities professionals practicing before the Commission—

''(i) who have been found to have aided and abetted a violation of the Federal securities laws, including rules or regulations promulgated thereunder (hereinafter collectively referred to as 'Federal securities laws'), but who have not been sanctioned, disciplined, or otherwise penalized as a primary violator in any administrative action or civil proceeding, including in any settlement of such actions or proceedings (referred to hereinafter as 'aiders and abettors'); and

''(ii) who have been found to have been primary violators of the Federal securities laws;

''(B) a description of the Federal securities laws violations committed by aiders and abettors and by primary violators, including—

''(i) the specific provisions of the Federal securities laws violated;

''(ii) the specific sanctions and penalties imposed upon, such aiders and abettors and primary violators, including the amount of any monetary penalties assessed upon and collected from such persons;

''(iii) the occurrence of multiple violations by the same person or persons either as an aider or abettor or as a primary violator; and

''(iv) whether as to each such violator disciplinary sanctions have been imposed, including any censure, suspension, temporary bar, or permanent bar to practice before the Commission; and

''(C) the amount of disgorgement, restitution or any other fines or payments the Commission has (i) assessed upon and (ii) collected from, aiders and abettors and from primary violators.

''(2) A report based upon the study conducted pursuant to subsection (c)(1) shall be submitted to the Senate Committee on Banking, Housing, and Urban Affairs no later than 6 months after the date of enactment of the 'Public Company Accounting Reform and Investor Protection Act of 2002'.

''(d) RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.''.

(b) ELECTRONIC FILING.—Notwithstanding the provisions of section 403 of this Act, section 16(a)(2) of the Securities and Exchange Act of 1934, as added by section 403, is amended to read as follows:

''(2) if there has been a change in such ownership, or if such person shall have purchased or sold a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving such equity security, shall file electronically with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement before the end of the second business day following the day on which the subject transaction has been executed, or at such other times as the Commission shall establish, by rule, in any case in which the Commission determines that such 2 day period is not feasible, and the Commission shall provide that statement on a publicly accessible Internet site not later than the end of the business day following that filing, and the issuer (if the issuer maintains a corporate website) shall provide that statement on that corporate website not later than the end of the business day following that filing (the requirements of this paragraph with respect to electronic filing and providing the statement on a corporate website shall take effect 1 year after the date of enactment of this paragraph), indicating ownership by that person at the date of filing, any such changes in such ownership, and such purchases and sales of the security-based swap agreements as have occurred since the most recent such filing under this paragraph.''.

SEC. 603. FEDERAL COURT AUTHORITY TO IMPOSE PENNY STOCK BARS.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)), as amended by this Act, is amended by adding at the end the following:

''(7) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM PARTICIPATING IN AN OFFERING OF PENNY STOCK.—

''(A) IN GENERAL.—In any proceeding under paragraph (1) against any person participating in, or, at the time of the alleged misconduct who was participating in, an offering of penny stock, the court may prohibit that person from participating in an offering of penny stock, conditionally or unconditionally, and permanently or for such period of time as the court shall determine.

''(B) DEFINITION.—For purposes of this paragraph, the term 'person participating in an offering of penny stock' includes any person engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of, any penny stock. The Commission may, by rule or regulation, define such term to include other activities, and may, by rule, regulation, or order, exempt any person or class of persons, in whole or in part, conditionally or unconditionally, from inclusion in such term.

(b) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following:

''(g) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM PARTICIPATING IN AN OFFERING OF PENNY STOCK.—

''(1) IN GENERAL.—In any proceeding under subsection (a) against any person participating in, or, at the time of the alleged misconduct, who was participating in, an offering of penny stock, the court may prohibit that person from participating in an offering of penny stock, conditionally or unconditionally, and permanently or for such period of time as the court shall determine.

''(2) DEFINITION.—For purposes of this subsection, the term 'person participating in an offering of penny stock' includes any person engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of, any penny stock. The Commission may, by rule or regulation, define such term to include other activities, and may, by rule, regulation, or order, exempt any person or class of persons, in whole or in part, conditionally or unconditionally, from inclusion in such term.''.

SEC. 604. QUALIFICATIONS OF ASSOCIATED PERSONS OF BROKERS AND DEALERS.

(a) BROKERS AND DEALERS.—Section 15(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended—

(1) by striking subparagraph (F) and inserting the following:

''(F) is subject to any order of the Commission barring or suspending the right of the person to be associated with a broker or dealer;''; and

(2) in subparagraph (G), by striking the period at the end and inserting the following: ''; or

''(H) is subject to any final order of a State securities commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

''(i) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

''(ii) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.''.

(b) INVESTMENT ADVISERS.—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(e)) is amended by striking paragraphs (7) and (8) and inserting the following:

''(7) is subject to any order of the Commission barring or suspending the right of the person to be associated with an investment adviser; or

''(8) is subject to any final order of a State securities commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

''(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

''(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.''.

(c) CONFORMING AMENDMENTS.—

(1) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(A) in section 3(a)(39)(F) (15 U.S.C. 78c(a)(39)(F)), by inserting '', or is subject to an order or finding,'' before ''enumerated'';

(B) in each of sections 15(b)(6)(A)(i) (15 U.S.C. 78o(b)(6)(A)(i)), paragraphs (2) and (4) of section 15B(c) (15 U.S.C. 78o–4(c)), and subparagraphs (A) and (C) of section 15C(c)(1) (15 U.S.C. 78o–5(c)(1)) by striking ''or omission'' each place that term appears, and inserting '', or is subject to an order or finding,''; and

(C) in each of paragraphs (3)(A) and (4)(C) of section 17A(c) (15 U.S.C. 78q–1(c)), by inserting '', or is subject to an order or finding,'' before ''enumerated'' each place that term appears.

(2) INVESTMENT ADVISERS ACT OF 1940.—Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(f)) is amended, by inserting ''or (3)'' after ''paragraph (2)''.

TITLE VII—STUDIES AND REPORTS

SEC. 701. GAO STUDY AND REPORT REGARDING CONSOLIDATION OF PUBLIC ACCOUNTING FIRMS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study—

(1) to identify—

(A) the factors that have led to the consolidation of public accounting firms since 1989 and the consequent reduction in the number of firms capable of providing audit services to large national and multi-national business organizations that are subject to the securities laws;

(B) the present and future impact of the condition described in subparagraph (A) on capital formation and securities markets, both domestic and international; and

(C) solutions to any problems identified under subparagraph (B), including ways to increase competition and the number of firms capable of providing audit services to large national and multinational business organizations that are subject to the securities laws;

(2) of the problems, if any, faced by business organizations that have resulted from limited competition among public accounting firms, including—

(A) higher costs;

(B) lower quality of services;

(C) impairment of auditor independence; or

(D) lack of choice; and

(3) whether and to what extent Federal or State regulations impede competition among public accounting firms.

(b) CONSULTATION.—In planning and conducting the study under this section, the Comptroller General shall consult with—

(1) the Commission;

(2) the regulatory agencies that perform functions similar to the Commission within the other member countries of the Group of Seven Industrialized Nations;

(3) the Department of Justice; and

(4) any other public or private sector organization that the Comptroller General considers appropriate.

(c) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 702. COMMISSION STUDY AND REPORT REGARDING CREDIT RATING AGENCIES.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Commission shall conduct a study of the role and function of credit rating agencies in the operation of the securities market.

(2) AREAS OF CONSIDERATION.—The study required by this subsection shall examine—

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

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

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

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

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

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

(b) REPORT REQUIRED.—The Commission shall submit a report on the study required by subsection (a) to the President, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than 180 days after the date of enactment of this Act.

TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

SEC. 801. SHORT TITLE.

This title may be cited as the ''Corporate and Criminal Fraud Accountability Act of 2002''.

SEC. 802. CRIMINAL PENALTIES FOR ALTERING DOCUMENTS.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

''§ 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

''Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 10 years, or both.

''§ 1520. Destruction of corporate audit records

''(a)(1) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(a)) applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

''(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an opportunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(a)) applies.

''(b) Whoever knowingly and willfully violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be fined under this title, imprisoned not more than 5 years, or both.

''(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation, imposed by Federal or State law or regulation, to maintain, or refrain from destroying, any document.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new items:

''1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy.

''1520. Destruction of corporate audit records.''.

SEC. 803. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking ''or'' after the semicolon;

(2) in paragraph (18), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end, the following:

''(19) that—

''(A) arises under a claim relating to—

''(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), any State securities laws, or any regulations or orders issued under such Federal or State securities laws; or

''(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

''(B) results, in relation to any claim described in subparagraph (A), from—

''(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

''(ii) any settlement agreement entered into by the debtor; or

''(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor.''.

SEC. 804. STATUTE OF LIMITATIONS FOR SECURITIES FRAUD.

(a) IN GENERAL.—Section 1658 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Except''; and

(2) by adding at the end the following:

''(b) Notwithstanding subsection (a), a private right of action that involves a claim of fraud, deceit, manipulation, or contrivance in contravention of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of—

''(1) two years after the discovery of the facts constituting the violation; or

''(2) five years after such violation.''.

(b) EFFECTIVE DATE.—The limitations period provided by section 1658(b) of title 28, United States Code, as added by this section, shall apply to all proceedings addressed by this section that are commenced on or after the date of enactment of this Act.

(c) NO CREATION OF ACTIONS.—Nothing in this section shall create a new, private right of action.

SEC. 805. REVIEW OF FEDERAL SENTENCING GUIDELINES FOR OBSTRUCTION OF JUSTICE AND EXTENSIVE CRIMINAL FRAUD.

Pursuant to section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, as appropriate, the Federal Sentencing Guidelines and related policy statements to ensure that—

(1) the base offense level and existing enhancements contained in United States Sentencing Guideline 2J1.2 relating to obstruction of justice are sufficient to deter and punish that activity;

(2) the enhancements and specific offense characteristics relating to obstruction of justice are adequate in cases where—

(A) documents and other physical evidence are actually destroyed, altered, or fabricated;

(B) the destruction, alteration, or fabrication of evidence involves—

(i) a large amount of evidence, a large number of participants, or is otherwise extensive;

(ii) the selection of evidence that is particularly probative or essential to the investigation; or

(iii) more than minimal planning; or

(C) the offense involved abuse of a special skill or a position of trust;

(3) the guideline offense levels and enhancements for violations of section 1519 or 1520 of title 18, United States Code, as added by this title, are sufficient to deter and punish that activity;

(4) the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50;

(5) a specific offense characteristic enhancing sentencing is provided under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) for a fraud offense that endangers the solvency or financial security of a substantial number of victims; and

(6) the guidelines that apply to organizations in United States Sentencing Guidelines, chapter 8, are sufficient to deter and punish organizational criminal misconduct.

SEC. 806. PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

"§ 1514A. Civil action to protect against retaliation in fraud cases

''(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

''(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

''(A) a Federal regulatory or law enforcement agency;

''(B) any Member of Congress or any committee of Congress; or

''(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

''(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

''(b) ENFORCEMENT ACTION.—

''(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

''(A) filing a complaint with the Secretary of Labor; or

''(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

''(2) PROCEDURE.—

''(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

''(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

''(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

''(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

''(c) REMEDIES.—

''(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

''(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

''(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

''(B) the amount of back pay, with interest; and

''(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

''(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:

''1514A. Civil action to protect against retaliation in fraud cases.''.

SEC. 807. CRIMINAL PENALTIES FOR DEFRAUDING SHAREHOLDERS OF PUBLICLY TRADED COMPANIES.

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

"§ 1348. Securities fraud

''Whoever knowingly executes, or attempts to execute, a scheme or artifice—

''(1) to defraud any person in connection with any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d));

shall be fined under this title, or imprisoned not more than 10 years, or both.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

''1348. Securities fraud.''.

TITLE IX—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

SEC. 901. SHORT TITLE.

This title may be cited as the ''White-Collar Crime Penalty Enhancement Act of 2002''.

SEC. 902. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking ''If two or more'' and all that follows through ''If, however,'' and inserting the following:

''(a) IN GENERAL.—If 2 or more persons—

''(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

''(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

''(b) MISDEMEANOR OFFENSE.—If, however,''.

SEC. 903. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking ''five years'' and inserting ''10 years''.

SEC. 904. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking ''$5,000'' and inserting ''$100,000'';

(1) by striking ''one year'' and inserting ''10 years''; and

(3) by striking ''$100,000'' and inserting ''$500,000''.

SEC. 905. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 906. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

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

"§ 1348. Failure of corporate officers to certify financial reports

''(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

''(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

''(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

''(1) any person who recklessly and knowingly violates any provision of this section shall upon conviction be fined not more than $500,000, or imprisoned not more than 5 years, or both; or

''(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1348. Failure of corporate officers to certify financial reports.''.

SEC. 907. HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking ''five'' and inserting ''ten''.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking ''five'' and inserting ''ten''.

SEC. 908. TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code, is amended—

(1) by re-designating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), (h), (i) and (j);

(2) by inserting after subsection (b) the following new subsection:

''(c) Whoever corruptly—

''(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

''(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so;

shall be fined under this title or imprisoned not more than 10 years, or both.''.

SEC. 909. TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—The Securities Exchange Act of 1934 is amended by inserting after section 21C(c)(2) (15 U.S.C. 78u–3(c)(2)) the following:

''(3) TEMPORARY FREEZE.—(A) Whenever, during the course of a lawful investigation involving possible violations of the Federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents, or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a Federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an interest-bearing account for 45 days. Such an order shall be entered, if the court finds that the issuer is likely to make such extraordinary payments, only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest. A temporary order shall become effective immediately and shall be served upon the parties subject to it and, unless set aside, limited or suspended by court of competent jurisdiction, shall remain effective and enforceable for 45 days. The period of the order may be extended by the court upon good cause shown for not longer than 45 days, provided that the combined period of the order not exceed 90 days.

''(B) If the individual affected by such order is charged with violations of the Federal securities laws by the expiration of the 45 days (or the expiration of any extended period), the escrow would continue, subject to court approval, until the conclusion of any legal proceedings. The issuer and the affected director, officer, partner, controlling person, agent or employee would have the right to petition the court for review of the order. If the individual affected by such order is not charged, the escrow will terminate at the expiration of the 45 days (or the expiration of any extended period), and the payments (with accrued interest) returned to the issuer.''.

(b) TECHNICAL AMENDMENT.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3(c)(2)) is amended by striking ''This'' and inserting ''Paragraph (1) of this''.

SEC. 910. AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Commission pursuant to paragraph (2) and any additional policy recommendations the Commission may have for combating offenses described in paragraph (1).

(b) OTHER.—In carrying out this section, the Sentencing Commission is requested to—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 120 days after the date of the enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

SEC. 911. AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) In section 21C of the Securities Exchange Act of 1934, add at the end a new subsection as follows:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''.

(b) In section 8A of the Securities Act of 1933 add at the end a new subsection as follows:

''(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''.

TITLE X—CORPORATE TAX RETURNS

SEC. 1001. SENSE OF THE SENATE REGARDING THE SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICERS.

It is the sense of the Senate that the Federal income tax return of a corporation should be signed by the chief executive officer of such corporation.

The PRESIDING OFFICER. The Senate insists on its amendment and requests a conference with the House.

EXECUTIVE SESSION

NOMINATION OF LAVENSKI R. SMITH OF ARKANSAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT

The PRESIDING OFFICER. The Senate will proceed to executive session.

CLOTURE MOTION

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

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 903, the nomination of Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit:

ZELL MILLER, FRITZ HOLLINGS, KENT CONRAD, BYRON L. DORGAN, HARRY REID, JEFF BINGAMAN, DEBBIE STABENOW, JACK REED, BARBARA BOXER, PATRICK LEAHY, BARBARA MIKULSKI, BLANCHE R. LINCOLN, BOB

GRAHAM, JEAN CARNAHAN, JAY ROCKEFELLER, CHARLES SCHUMER.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I understand that no one is asking for a rollcall vote on confirmation if we can reach the cloture vote. So if we reach cloture, this will be the last vote of the evening.

The PRESIDING OFFICER. Under the unanimous consent, the mandatory quorum call under the rule is waived. The question is, Is it the sense of the Senate that debate on Executive Calendar No. 903, the nomination of Lavenski R. Smith of Arkansas to be United States Circuit Judge for the Eighth Circuit, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAIG), the Senator from Idaho (Mr. CRAPO), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

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

The yeas and nays resulted—yeas 94, nays 3, as follows:

[Rollcall Vote No. 177]

YEAS—94

Akaka	Edwards	McConnell
Allard	Ensign	Mikulski
Allen	Enzi	Miller
Baucus	Feinstein	Murkowski
Bayh	Fitzgerald	Murray
Bennett	Frist	Nelson (FL)
Biden	Graham	Nelson (NE)
Bingaman	Gramm	Nickles
Bond	Grassley	Reed
Boxer	Gregg	Reid
Breaux	Hagel	Roberts
Brownback	Harkin	Rockefeller
Bunning	Hatch	Santorum
Burns	Hollings	Sarbanes
Byrd	Hutchinson	Schumer
Campbell	Hutchison	Sessions
Cantwell	Inhofe	Shelby
Carnahan	Inouye	Smith (NH)
Carper	Jeffords	Smith (OR)
Chafee	Johnson	Snowe
Cleland	Kennedy	Specter
Clinton	Kerry	Stabenow
Cochran	Kohl	Stevens
Collins	Kyl	Thomas
Conrad	Landrieu	Thompson
Corzine	Leahy	Thurmond
Daschle	Levin	Torricelli
DeWine	Lieberman	Voinovich
Dodd	Lincoln	Warner
Domenici	Lott	Wyden
Dorgan	Lugar	
Durbin	McCain	

NAYS—3

Dayton	Feingold	Wellstone

NOT VOTING—3

Craig	Crapo	Helms

The PRESIDING OFFICER (Mr. DAYTON). On this vote, the yeas are 94, the nays are 3. Three-fifths of the Senators duly chosen and affirmed having voted in the affirmative, the motion is agreed to.

Mr. FEINGOLD. Mr. President, I will support the nomination of Lavenski R. Smith, of Arkansas, to be a U.S. Circuit Judge. I did so as a member of the Judiciary Committee, and I will do so again on the floor. But I will also support the effort made by the Senator from Arizona, Mr. MCCAIN, to advance the long overdue appointment of a commissioner to the expired position on the Federal Elections Commission, and in doing so I opposed the cloture motion to bring debate on the Smith nomination to a close. As we have seen, the FEC commissioners have a direct impact on Federal election laws, even to the extent of obstructing the will of Congress. Given the recent behavior of the FEC, it is reasonable for us to take every appropriate step to facilitate the filing of the expired position.

Mr. HATCH. Mr. President, I rise today in support of Justice Lavenski Smith to the Eighth Circuit Court of Appeals. Before I speak directly about him and his nomination, however, I would like to take just a moment to explain where the Senate stands on its job of considering and confirming President Bush's judicial nominees during this Congress.

The Senate has not confirmed a single judge since May 13, exactly 9 weeks ago today. This is nothing short of irresponsible considering the vacancy rates and backlogs around the country.

There were 31 vacancies in the Federal courts of appeals when President Bush sent us his first 11 circuit nominees on May 9, 2001, and there are 31 today. We are barely keeping pace with the rate of attrition.

The Sixth Circuit is half-staffed with 8 of its 16 seats vacant. The DC. Circuit is two-thirds staffed, with 4 of its 12 seats sitting vacant. Meanwhile, seven of President Bush's first 11 nominees have not even been scheduled for hearings—despite having been pending for 432 days as of today. A total of 23 circuit court nominations now sit pending for those 31 vacancies. But we have confirmed only 3 circuit judges this year, and only 9 since President Bush took office.

It is bad enough that the Judiciary Committee has been slow to even begin the process of consideration by scheduling hearings. It is even worse that the Democrat leadership can't do what is necessary to move the 17 judges that are still pending for a floor vote. Of course, I applaud the leadership for bringing Lavenski Smith to a vote, but I think everyone has to admit that 1 out of 17 is, at most, a low start. Many of my colleagues have noted with displeasure the Judiciary Committee's wholesale slow-walking of President Bush's nominees, but now I must bring some attention to the Senate leadership's role as well. It is high time for them to demonstrate their leadership, and their control of the floor, by setting votes on the rest of the 16 judicial nominees who are awaiting a final vote.

Mr. President, let me put the current situation into context. Historically, a President can count on seeing all of his first 11 circuit court nominees confirmed. Presidents Reagan, Bush, and Clinton all enjoyed a 100 percent confirmation rate on their first 11 circuit court nominees. In stark contrast, 7 of President Bush's first 11 nominations are still pending without a hearing for over 1 whole year.

History also shows that Presidents can expect almost all of their first 100 nominees to be confirmed swiftly. Presidents Reagan, Bush and Clinton got 97, 95 and 97, respectively, of their first 100 judicial nominations confirmed. But the Senate has confirmed only 57 of President Bush's first 100 nominees.

Some try to blame Republicans for the current vacancy crisis. That is bunk. In fact, the number of judicial vacancies decreased by 3 during the 6 years of Republican leadership. There were 70 vacancies when I became chairman of the Judiciary Committee in January 1995, and there were 67 at the close of the 106th Congress in December 2000.

Now I know that some try to justify the current wholesale delay as payback for the past. That is just a sleight of hand. Look at the facts: During President Clinton's 8 years in office, the Senate confirmed 377 judges—essentially the same, 5 fewer as for Reagan, 382. This is an unassailable record of non-partisan fairness, especially when you consider that President Reagan had 6 years of a Senate controlled by his own party, while President Clinton had only 2. Furthermore, almost 50 percent of all Federal judges currently serving are Clinton judges.

Finally, some suggest that the Republicans left an undue number of nominees pending in committee without hearings at the end of the Clinton administration. Well, we left 41, which is 13 less that the Democrats left without hearings in 1992 at the end of the Bush administration.

Mr. President, the President's nominees deserve better; President Bush deserves better; and most importantly, the American people—the people who own this Government and who rely on the judicial branch for their rights and freedoms—deserve much better.

Now, Mr. President, I would like to turn to the matter directly at hand, the confirmation of Lavenski Smith to the Eighth Circuit Court of Appeals. Justice Smith is a highly qualified jurist who has distinguished himself through his service to the poor, his service in the public sector, and his service on the State bench. His experience includes working for legal services, running his own law firm, serving with distinction on the Arkansas Supreme Court, and holding his current position on the Arkansas Public Service Commission.

Justice Smith began his legal career at Ozark Legal Services in Fayetteville, AR, specializing in consumer defense and the representation of juveniles as a guardian ad litem. He worked with those who are traditionally underrepresented: low-income individuals, families, and children. After 4 years, he

opened his own law firm in the Arkansas town of Springdale, where he handled all sorts of cases, including business law, real estate, domestic relations, worker's compensation, public benefits, and estates. Notably, his firm was the first minority-owned firm in the history of the town.

Justice Smith's excellence as a lawyer and his commitment to public service did not go unnoticed: in 1999 Governor Huckabee appointed Justice Smith to the Arkansas Supreme Court. During his tenure on the bench, Justice Smith wrote opinions on a range of legal issues, including criminal, tort, worker's compensation, insurance, contract, civil procedure, oil and gas, tax, probate and attorney discipline matters.

Currently, Justice Smith serves on the Arkansas Public Service Commission, which is responsible for regulating the State's electric, gas, and telecommunications industries. In this position, Justice Smith has become an expert in understanding and interpreting a wide variety of complex Federal regulations, including the Federal Power Act and the Federal Telecommunications Act of 1996.

Chief Justice Arnold of the Arkansas Supreme Court, Justice Smith's former colleague, praises his intelligence and the quality of his service on the court, saying, ''I think he'll make a great Federal judge.'' Justice Smith has wide, bipartisan support in his home State, but I think the Arkansas Democrat-Gazette summed it up well: It said that Justice Smith possesses ''integrity, intelligence, and compassion.'' I agree, and I urge my colleagues to join me in supporting this qualified candidate for the Eighth Circuit. I think that each of us can be proud about voting for the first African-American Arkansan to serve on a circuit court of appeals.

Thank you, Mr. President. I yield the floor.

Mr. LEAHY. Mr. President, ''Lavenski Smith is a young Arkansas political appointee, who has had a total of 7 years experience practicing law, has had minimal Federal experience, minimal appellate experience, and no experience at all arguing in front of the Federal Court of Appeals for the Eighth Circuit to which he has been nominated. He is nominated to the judgeship held by Judge Richard Arnold, one of the most distinguished judges ever to serve on the 8th Circuit.

Mr. Smith served a brief term on the Arkansas Supreme Court, after being appointed by the Governor and before running for election to a lower State court judicial vacancy and losing. He also spent several years as the volunteer executive director of the Arkansas chapter of the Rutherford Institute, an organization devoted to, among other things, doing away with a woman's constitutional right to choose, and supporting efforts against Governor, and then President, Bill Clinton.''

The following is what the Arkansas Times had to say about Mr. SMITH's qualifications:

Lavenski Smith of Little Rock is not the best-qualified Arkansan President Bush could have chosen for the U.S. 8th Circuit Court of Appeals, nor even close. Marginally acceptable, if that, Smith was nominated by Bush, on the recommendation of Senator TIM HUTCHINSON, because Smith is racially, ideologically and politically correct—a black conservative Republican, avidly anti-abortion and anti-Clinton, whose nomination will, it is hoped, aid HUTCHINSON's re-election effort. Not much there to suggest a distinguished judicial career. Still, there are worse things than mediocrity, and Bush has nominated them, too.

It is difficult to vote in favor of a nominee to a lifetime appointment on a Federal appellate court with this kind of record, but he is supported by both of his home-State Senators. Senator BLANCHE LINCOLN worked hard to be sure that Mr. Smith was included in a hearing earlier this year and she supports his nomination. Based on Senator LINCOLN's confidence in this nominee's ability to do the job and based on the nominee's assurances that he will not seek to impose his personal views in his legal decisions, I have reluctantly decided to vote in favor of this nomination.

Smith seems like an honorable person, and despite his political views and political activism, I am hopeful that he will be a person of his word: that he will follow the law and not seek out opportunities to overturn precedent or decide cases in accord with his private beliefs rather than his obligations as a judge.

This is one of 17 nominations that have been reported by the Judiciary Committee to the Senate but were stalled for the last 2 months. In addition, nearly two dozen Executive Branch nominees reported by the Judiciary Committee are also awaiting action.

The delay in final Senate action on these nominees has been due to the failure of the administration to fulfill its responsibility to work with the Senate in the naming of members of bipartisan boards and commissions. Last week I congratulated the majority leader for overcoming this impediment and for his patience and determination in achieving some movement on these matters.

I understand that he hopes to be able to resume voting on judicial nominations once cloture is achieved on the Smith nomination today.

Democrats are taking extraordinary efforts to overcome impediments to action on nominations. Had the administration not caused this delay, and had Republican Senators not placed ''holds'' over the last several months, I am confident that the Senate would have confirmed more than 70 judicial nominees by now.

We were able to overcome the other obstacles created by the administration and proceed to confirm 57 judicial nominees in our first 10 months in the majority, a record outpacing any Republican total in any 10-month period in which they held the majority.

We have also addressed long-standing vacancies on circuit courts caused by Republican obstruction of President Clinton's judicial nominees. We held the first hearing for a Fifth Circuit nominee in 7 years, the first hearings for Sixth Circuit nominees in almost 5 years, the first hearing for a Tenth Circuit nominee in 6 years, and the first hearings for Fourth Circuit nominees in 3 years.

We have reformed the process for considering judicial nominees.

For example, we have ended the practice of anonymous holds that plagued the period of Republican control, when any Republican Senator could hold any nominee from his home State, his own circuit or any part of the country for any reason, or no reason, without any accountability. We have returned to the Democratic tradition of holding regular hearings, every few weeks, rather than going for months without a single hearing.

With a positive vote on the nomination of Lavenski Smith, the Senate will have confirmed its 10th Court of Appeals nominee of President Bush since the reorganization of the Senate Judiciary Committee a year ago, on July 10, 2001. During their recent 6½ years of majority control, Republicans averaged seven Court of Appeals confirmations a year.

The Democratic-led Judiciary Committee has had a record-breaking first year fairly and promptly considering President Bush's nominees, which I detailed last Friday. For example, in 1 year, we have held hearings for 78 of the President's nominees.

That is more hearings for this President's district and circuit court nominees than in 20 of the past 22 years.

Under Democratic leadership, the Senate confirmed more circuit and district court judges, 57, than were confirmed during all 12 months in each of 2000, 1999, 1997, 1996, and 1995, 5 of the prior 6 years of Republican control of the Senate. The Judiciary Committee has since last July voted on 15 circuit court nominees. In our first year, we held more hearings for more of President Bush's circuit court nominees than in the first year of any of the past three Presidents.

More of President Bush's nominees have also been given committee votes than in the first year of any of the past three Presidents.

Unfortunately, one-sixth of President Clinton's judicial nominees—more than 50—never got a committee hearing and committee vote from the Republican majority, which perpetuated long-standing vacancies into this year. If the Republicans had not left more than 50 of President Clinton's nominees without a hearing or a vote, the current number of vacancies might be closer to 40 than 90.

In addition, large numbers of vacancies continue to exist on many Courts

of Appeals, in large measure because the recent Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's Courts of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session.

From the time the Republicans took over majority control of the Senate in 1995 until the reorganization of the Committee last July, circuit vacancies increased from 16 to 33, more than doubling.

Democrats have broken with that recent history of inaction. During our first year in control of the Judiciary Committee, we held 16 hearings for circuit court nominees. That is almost the same number of circuit court nominees, 17, who were never given a Committee vote by Republicans in 2000.

Democrats are working hard to reduce judicial vacancies and we have moved quickly on these nominees, as well as many, many others. I have noted that we could have been even more productive with a little cooperation from the White House, but that has not been forthcoming.

Moreover, of the current vacancies, more than half do not have a nominee. We are almost out of district court nominees ready to be included at hearings, because the President has been so slow to nominate district court nominees and insists on delaying the ABA peer review process until after the nominations are made.

Today's vote on the nomination of Lavenski Smith to the United States Court of Appeals for the Eighth Circuit is the third Eighth Circuit nominee the committee has considered in the past year. This is in sharp contrast to the treatment of Eighth Circuit nominee Bonnie Campbell by Republicans.

Ms. Campbell is now a partner at the distinguished Washington law firm of Arent Fox Kintner Plotkin & Kahn, where she acts as an adviser, negotiator, advocate, and litigator, representing employers in personnel, labor relations, employment discrimination, benefits, and other employment-related matters. A graduate of Drake University and Drake's law school, Ms. Campbell has an outstanding record of public service.

She was nominated by President Clinton early in 2000 to serve on the U.S. Court of Appeals for the Eighth Circuit.

She was supported by both of her Senators, Democrat TOM HARKIN and Republican CHUCK GRASSLEY, given a ''Qualified'' rating by the ABA, and afforded a hearing before the Judiciary Committee a few months later, in May of 2000. However, despite a noncontroversial hearing, Ms. Campbell was never scheduled for a committee vote. No explanation for this failure to give her a vote was ever given, and her nomination was eventually returned at the end of the 106th Congress. Other individuals nominated after Ms. Campbell were given committee hearings and votes and were confirmed later that year, while Ms. Campbell's nomination languished.

She seems to have been the victim of the Republican practice of anonymous, indefinite holds. In January of 2001, President Clinton re-nominated Ms. Campbell, but President Bush failed to seize the opportunity for bipartisanship, and withdrew her nomination shortly thereafter.

At the time of her nomination Ms. Campbell was nearing the end of a distinguished term at the U.S. Department of Justice, where she served as Director of the Violence Against Women Office, a position to which she was appointed by President Clinton in 1995.

In that capacity, she oversaw a $1.6 billion program to provide funding to States to strengthen their efforts in the areas of domestic violence and sexual abuse. She also directed the Federal Government's efforts to implement the new criminal statutes created by the 1994 Violence Against Women Act. Ms. Campbell oversaw the Justice Department's efforts to combine tough new Federal criminal laws with assistance to states and localities to fight against violence against women.

Bonnie Campbell had, before coming to Washington, served as the Attorney General of Iowa, the first woman ever elected to that position. During her tenure in office, she was instrumental in pushing the State legislature to strengthen Iowa's domestic abuse statute, and in 1992 she authored one of the Nation's first anti-stalking laws. In 1997 Bonnie Campbell was named by Time magazine as one of the 25 most influential people in America.

Ms. Campbell's record of distinguished public service and her experience in private practice combined to make an excellent nominee to the Court of Appeals for the Eighth Circuit, a fact with which both of her Senators obviously agreed. Yet once afforded a hearing, Bonnie Campbell was left to linger in an indefensible limbo. She was not granted a committee vote, but neither was she confronted with any objections to her nomination to the Eighth Circuit proceeding.

Contrasting the treatment of the nominations of Bonnie Campbell and Lavenski Smith to the Eighth Circuit evidences the difference in how the Republican majority and the current Democratic majority have handled judicial nominations and highlights the fairness that has been restored to the confirmation process.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

The question is, Will the Senate advise and consent to the nomination of Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit?

The nomination was confirmed.

Mr. HUTCHINSON. Mr. President, I rise to speak about Judge Lavenski Smith who has been confirmed this evening for the eighth circuit court of appeals. This is a great evening for him and his family. He is going to be a great jurist. I congratulate Judge Smith tonight.

I thank President Bush for making an excellent choice, a choice that I think Arkansas can feel good about, the Eighth Circuit can feel good about, and, indeed, the country can feel good about. Judge Smith is an excellent choice. He is the first African American to represent the State of Arkansas in the Eighth Circuit Court of Appeals. He will do so with great distinction.

I will speak, very briefly, about his career. But the hallmark of Judge Smith's entire career has been one of service. It has been a storybook tale.

He is a native of Hope, AR. He earned both his bachelor's degree and his law degree from the University of Arkansas in Fayetteville. He worked his way through college. Following law school, he clerked for 3 years, and then he served the poorest citizens of Arkansas as the staff attorney for Ozark Legal Services, representing abused and neglected children.

After working with Ozark Legal Services, he opened the first minority-owned firm in Springdale, AR, handling primarily civil cases. He then taught business law at John Brown University and took several positions in public service, including Regulatory Liaison for Governor Huckabee. Currently Judge Smith serves as the commissioner of the Arkansas Public Service Commission.

In 1999, he was appointed to the Arkansas supreme court and served on the Arkansas supreme court with distinction for 2 years. As a supreme court justice, he presided over hundreds of cases and authored several dozen majority opinions. He was highly praised by all his colleagues in the Arkansas supreme court.

In June of 2001, the American Bar Association reviewed Justice Smith's qualifications and made a ''unanimous qualified'' determination.

Beyond all of his obvious legal qualifications, I want to point out that he has had a long history of community service. Whether it was as a board member of the Northwest Arkansas Christian Justice Center, a nonprofit organization dedicated to providing mediation and conciliation services, working with the Partners for Family Training, a group that recruits and trains foster parents, or whether it was raising funds for the School of Hope, a school for handicapped children in Hope, AR, at every stage of his life there has been this hallmark of service.

This outstanding record of service is the most outwardly visible sign of something the people in Arkansas know well; that he is a good and honorable man who will serve his country well. We can all be proud of the vote that occurred this evening.

It is a storybook tale, but it is a storybook tale that has not yet had the last chapters written. There are going to be a lot of wonderful chapters in the years ahead as he, as a young man, has a long time to serve on the Federal bench.

It will be a wonderful culmination to what has already been a great story and a great career. I stand with Arkansas this evening in pride.

I thank Senator BLANCHE LINCOLN for her cooperation, for her support, and all that she has done over the last year to make tonight's vote possible.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I thank my colleague from Arkansas for those kind words.

I rise to express my gratitude to all of my colleagues tonight for their support of the cloture motion before the Senate this evening of the nomination of Judge Lavinski Smith of Arkansas to fill a vacancy on the Eighth Circuit Court of Appeals.

I am certainly pleased that the majority leader has taken a step which demonstrates a commitment of the Democratic leadership in the Senate to move the nomination process forward and to fulfill our obligation under the Constitution.

As one of those who signed the cloture motion to bring forward Judge Smith's nomination, I am proud of my colleagues for joining in with an excellent vote in supporting this fine Arkansan to the bench.

I want to say a special thanks to the chairman of the Judiciary Committee for his hard work over the last year to reduce the number of judicial vacancies which will ensure our Federal courts can operate efficiently. He has tirelessly worked in the Judiciary Committee to be fair and to be expeditious.

There has certainly been a good deal of heated debate surrounding the pace of judicial confirmations in recent months. However, I can say from personal experience that the chairman has been highly responsive to my inquiries regarding this nomination. I am grateful for his efforts and those of the committee staff in trying to move the process forward expeditiously and fairly.

I also thank my colleague, Senator HUTCHINSON from Arkansas, for his work in this arena.

For the benefit of my colleagues who are not familiar with Judge Smith, I am pleased to offer a few words of introduction.

As my colleague from Arkansas mentioned, Lavinski Smith is a lifelong resident of Hope, Arkansas, as many people from Arkansas have been recognized being from Hope. After graduating from high school, Judge Smith moved north to Fayetteville, where he received both his BA and JD from the University of Arkansas in Fayetteville.

Since that time, Judge Smith has enjoyed an impressive career as a practicing attorney, as my colleague mentioned, with great service through the legal services to the indigent, a State supreme court judge, a professor, and, most recently, a member of the Arkansas Public Service Commission.

This would be an impressive list of accomplishments for anyone, but at the age of 43, Judge Smith's record is a good indication that he has many years of productive service in his future.

Since President Bush announced the appointment of Judge Smith last year, I have heard from dozens of Arkansans from across the political spectrum who support his nomination. In fact, my support for Judge Smith's nomination is based in large part on the enthusiastic endorsement he has received from those who know him the best: his colleagues and friends who have firsthand knowledge of his professional and personal attributes, those who have worked with him in the legal field who have sent their recommendations to me.

Those who have indicated strong support for Judge Smith in Arkansas include Arkansas supreme court chief justice ''Dub'' Arnold and Arkansas NAACP president Dale Charles. In addition, I believe it is important to note that Judge Smith received a unanimous ''qualified'' rating for this position by the ABA Standing Committee on the Federal Judiciary.

Even though Judge Smith and I may not agree on every issue, that is not the test I apply to determine an individual's fitness for the Federal judiciary. I evaluate judicial nominees based on skill, experience, and ability to understand and apply established precedent, not on any one particular point of view a nominee may hold. Fundamentally, I am interested in knowing that a nominee can fulfill his responsibility under the Constitution in a court of law.

I am satisfied that Judge Smith has met that standard, and I, therefore, thank my colleagues for supporting his nomination and the cloture motion to move that forward.

The PRESIDING OFFICER. The majority leader.

PASSAGE OF S. 2673

Mr. DASCHLE. I thank all of my colleagues for the tremendous work done in the past week. I especially compliment the distinguished Senator from Maryland, the chairman of the Banking Committee, for the extraordinary leadership he has shown in getting us to this point. I am sure there were few who have ever guessed this could have passed so overwhelmingly as it did tonight.

That is the accounting legislation. I am very grateful to all who had a significant role to play. I thank the staff of the Banking Committee and so many of my colleagues. I also acknowledge the fine work done by Senator LEAHY on the enforcement aspects of this legislation.

The combination of the contribution made by the Judiciary Committee, along with the Banking Committee, makes this a historic moment for the Senate, a historic moment for corporate governance, and a real recognition that at long last we are going to be rebuilding the confidence and trust we need in our free enterprise system.

We made a contribution in that regard today. I am very hopeful we can get this work done very soon.

It would be my hope, given the President's support for the Sarbanes bill, and Speaker HASTERT's support, as he indicated just last week, that the House consider taking up the Sarbanes bill and passing it free-standing so we could send it directly to the President in time to afford the President the opportunity to sign it very quickly. That would be the quickest way, and given the broad bipartisan support this legislation now enjoys, and given Speaker HASTERT's support for the legislation, I would think this would be a tremendous opportunity to demonstrate in a bipartisan way how quickly we can respond as we did today. But more than how quickly, how effectively we can respond to the needs of our Nation when it comes to restoring that confidence.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Motion To Proceed

Mr. DASCHLE. Having disposed of the banking legislation, it is now our intent to turn to the whole issue of prescription drugs. We will deal with both cost containment as well as Medicare benefits. The bill passed out of the Labor Committee, S. 812, Calendar No. 491, will be the vehicle for our debate.

It is my intention now to ask unanimous consent the Senate proceed to the consideration of Calendar No. 491, S. 812, to provide greater access to affordable pharmaceuticals at 10:30 a.m., Tuesday, July 16.

Mr. GREGG. This bill was reported out of the committee on which I am ranking member. At the time it was reported out, which was last Thursday—so it has been a very quick turnaround and no report has been filed on the bill—there was an understanding within the committee that there would be two issues resolved before it came to the floor. One involved bioequivalency and the other involved the 45-day rule.

There are other issues with the bill. There are other issues which may require further work, but those two issues need to be resolved before this bill comes to the floor. As I believe was the understanding when the bill was passed out of committee, it would be passed with those being resolved before it got to the floor.

I understand it is being moved to the floor quickly to be the vehicle addressing the other issues involved in drug coverage.

The bill itself has some very strong points in it; I have drafted a fair amount of it so I recognize that. But at this time I have to object to the motion to proceed.

The PRESIDING OFFICER. Objection has been heard.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. I am happy to yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, in regard to the language to which the Senator has referred on the question of the bioequivalence, a whole new section was added, subsection (C) of section 7, dealing with bioequivalency. It was sent out to the good Senator on Thursday evening.

We had indicated if we did not hear back from the Senator or his staff, we would assume that language reflected what was discussed in the course of the markup. We had similar kinds of clarifications with regard to certain procedures and filings.

As far as we are concerned, at least on our side, these particular provisions have been dealt with in the legislation and we are prepared to move ahead with the consideration.

This is extraordinarily important legislation. It relates to not only the quality of prescription drugs but accessibility and affordability of prescription drugs. We are seeing today the significant abuses of the Hatch-Waxman legislation. If we were able to just go back to the full intent of Hatch-Waxman, conforming with that, this legislation would not be necessary. But it is necessary.

The best estimate is it would save consumers $71 billion over the period of 10 years. It is very important. We ought to be about it. I hope we can get to the legislation and start debating it.

We had a strong bipartisan vote in the committee, and we are ready to go and consider amendments. If there is further clarification that is necessary, we are glad to consider it, but I regret very much we are going to have to delay legislation which is as important as this to our seniors as well as to other Americans who believe they need to be able to get fairness in the consideration of generic drugs.

The PRESIDING OFFICER. The majority leader.

Mr. GREGG. Will the Senator yield for a question?

Mr. DASCHLE. I think I retain the floor. I will be happy to yield to the Senator from New Hampshire.

Mr. GREGG. Yes. That is why I was asking.

The question is this—rhetorical in nature. Unfortunately, in order to reach an agreement, you have to have both sides agree. Senator FRIST, who is concerned about the bioequivalency, has not agreed to the language. I have not agreed to the 45-day language. I am sure it could be worked out, and worked out rather promptly, so we would not have to go through the exercise of delaying this bill, and I would be happy to do that. But until we have worked out that issue, I have to reserve my rights and object to the proceeding.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, obviously, I am disappointed. I looked at the vote. I think it was 16 to 5—similar in magnitude, on a bipartisan basis, to the Sarbanes bill that passed out of the Banking Committee. We ended up with a unanimous vote on the floor.

I hope we can get the same kind of unanimity ultimately on this legislation. But a 16-to-5 vote would seem to me to indicate very strong bipartisan support for this legislation as well. Senators are welcome to offer amendments. We oftentimes negotiate issues on the floor and accommodate Senators' concerns, both in the managers' amendment as well as in individual votes. So we will certainly have that opportunity once again.

I have no doubt if there is an interest in resolving these outstanding questions, we ought to be able to do so. But we do need to move on. That was my hope, that we could lay the bill down and begin the debate and have these discussions.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I have no choice, of course, but to move to proceed to Calendar No. 491. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on the motion to proceed to Calendar No. 491, S. 812, the Greater Access to Affordable Pharmaceuticals Act of 2001:

Senators Harry Reid, Jon Corzine, Byron L. Dorgan, Ron Wyden, Maria Cantwell, Paul Sarbanes, Debbie Stabenow, Dick Durbin, Thomas Carper, Tom Daschle, Jack Reed, Daniel K. Akaka, Kent Conrad, Zell Miller, Charles Schumer, Ernest Hollings, and Hillary Clinton.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I ask unanimous consent that Senators Lincoln and Hutchinson have the opportunity to speak for up to 8 minutes each with respect to the Smith nomination, to appear at the appropriate place in the RECORD.

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

Mr. DASCHLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will include in this part of the RECORD the sections relating to the bioequivalence. It is on page 53. The effect of the section is:

This section shall not be construed to alter the authority of the Secretary of Health and Human Services to regulate biological products under the Food, Drug, and Cosmetics Act. Any such authority shall be exercised under that Act as in effect on the day before the day of enactment of this Act.

Effectively, we are restating the current law.

I will also have printed in the RECORD the language which was questioned earlier—I think an explanation and how it conforms with what we had agreed to in terms of the exchange.

If it is necessary, we will be glad to work with our friends and colleagues on the other side during the remainder of the evening and certainly tomorrow to try to find out, if this language is not satisfactory, what language would be satisfactory.

We did have areas of differences, but not with regard to these two particular provisions. There was an agreement on it. It was just trying to find the appropriate language which would reflect the opinion of the committee. We believed we had done so, and we are glad to work with our colleagues on the other side. If that is not the case, we are glad to make those adjustments and changes so we can begin the debate on this extremely important piece of legislation.

We recognized when this was introduced—and I give great respect to my friends and colleagues, Senator SCHUMER and Senator MCCAIN, for developing the basic legislation which was the core of the debate we had in our committee—it was modified to try to respond to some of those who had some concerns. We had Senator EDWARDS and Senator COLLINS in a bipartisan way develop an approach which had strong bipartisan support. We had good discussion and debate in our committee on this matter and a strong committee outcome.

This is a very important piece of legislation. It is one which deals, not so much with the availability and the accessability of drugs but as to the question of whether they are going to be reasonably affordable alternatives to brand name drugs and whether we are going to follow the agreement that was made at the time of the Hatch-Waxman legislation, which was enacted, which really was based upon the idea that we would have new breakthrough drugs rather than rehashing of older drugs.

What we have seen is in recent times those who have the patents are using the Hatch-Waxman legislation in ways that work to the significant disadvantage of the consumers in this country. It is to change those abuses that this legislation has been developed. It is very important. We will continue to work with our colleagues to try to clarify any of the language that needs to be clarified. We look forward to the debate at the earliest possible time.

I thank the majority leader for giving the attention and priority that he has to this legislation. I think for most of us, as we travel around to our constituencies, we find the availability, the accessibility, and the cost of prescription drugs are on the minds of just about every family in this country.

You don't have to be sick, although that is certainly something that every person who is ill understands very well. But it is the total family. So much of the challenge and the burden of health care costs goes to all the members of the family.

As we are particularly in the period of what I consider to be the life-science century where we have enormous opportunities for major breakthroughs and extraordinary kinds of positive impact on the lives of people in this country, we must make sure these prescription drugs and the generics are going to be available and accessible. The faster that we have a chance to engage in this debate and pass this legislation, the better the health of the American people is going to be.

I note on the floor the prime sponsor, the Senator from New York, Mr. SCHUMER. He has probably heard that there was objection to taking up this legislation because of certain language clarifications. We reviewed and put in the RECORD clarifications which, quite frankly, conform to the issues that were raised. They are not areas of difference but areas of clarification. We sent those to our colleagues last Thursday night indicating that we understand they would be satisfactory unless we heard back. We did not hear back until just minutes ago.

We want to work with our colleagues. We certainly invite the Senator who has been such a driving force on this issue. We hope that overnight and certainly in the early morning we could have a clarification which would remove the reasons for not proceeding; that at some time tomorrow we could begin the debate in full and move ahead to considering this legislation.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. KENNEDY. Yes.

Mr. SCHUMER. I thank my colleague from Massachusetts who has been such a great leader on this issue. I guess, as I understand it, our friend from New Hampshire has objected to moving forward.

We have spent a very long time talking about this issue—of course the issue of availability of drugs, and of course the issue of the cost of drugs but even the specifics of the generic drugs.

We had extensive hearings on this bill 10 weeks ago or 8 weeks ago. There has been a great deal of discussion. This is not a last minute something that someone wrote on the back of an envelope and said here, take it. There has been tremendous discussion on this issue. There are differences of opinion. That is fair. That is legitimate. That is why we have a Senate.

But to prevent the bill from moving forward when the cost of drugs goes through the roof, when the people are clamoring for us to bring down those costs, and when there is a proposal that passed in a very bipartisan way in Senator KENNEDY's committee, it just strikes me as missing the forest for the trees—the forest being the great need to do something and the trees being the details that we should be debating on the floor in open debate.

I will just say to my colleague that I am as disappointed as he is—maybe not quite as disappointed; nobody works harder than he does on bringing these issues to the floor, but almost as much.

Is this something that is brand new? Where do these objections come from? These are issues that we have discussed and agreed on. It is my understanding that the Senator from New Hampshire simply didn't have the votes when he decided not to bring forward his amendments when the committee marked up.

Is that a correct or an unfair characterization?

Mr. KENNEDY. The reason the Senator objects is in behalf of the Senator from Tennessee who wanted clarification in terms of the ability of the FDA to regulate biological products. We have included a new section on page 52. This section shall not be construed to alter the authority of the Secretary to regulate biological products under the FDA act. So we added that just for clarification.

It is difficult for me to understand why that doesn't work.

Mr. HUTCHINSON. Will the Senator yield?

Mr. KENNEDY. I will in just a moment.

Then there was another question with regard to the timing and procedures to be able to bring civil action. We added on page 35 a new section for the Senator from New Hampshire.

As I mentioned earlier, we don't have a difference. We would be glad to work through the evening, if we had the opportunity to proceed to this on tomorrow.

If this language isn't clear—we are not facing a difference on it. What I am troubled by is the fact that there is objection to moving to the legislation and moving to it in a timely way when it is legislation which is of such importance and relevance to every family in this country.

I see my friend from Michigan on the floor, but I will yield to the Senator from Arkansas.

Mr. HUTCHINSON. I ask the Senator from Massachusetts. I pose the question because as a member of the committee and someone who was very glad to join in a positive way the bipartisan vote for the legislation, it was my clear understanding as we came to that decisive vote that a point was reached in working out the two outstanding issues which Senator GREGG mentioned in his objection. There is no desire on anybody's part to slow this legislation down. But it was with the understanding that there would be that agreement.

While it seems the issues are relatively minor and that it can be done in a very expeditious way, the fact is that Senator FRIST and Senator GREGG have not yet signed off on that language.

So I can't stand here and listen to my colleague being characterized as obstructing the progress of this legislation when in fact they want to honor the agreement that was made at the time that bipartisan vote took place.

I ask the chairman if that is his recollection of the vote that occurred.

Mr. KENNEDY. No. The Senator has not understood correctly. I will stand by the record. There was never a conditioning of reporting this out for an agreement. I have been either chairman or ranking member for some period of time. I know those words are stated. But there was never a conditioning of reporting out based upon getting agreement. I would not have accepted that. This is too important. There was not a difference.

You will find that the language we have included with regard to biologics basically is a restatement of what Senator FRIST said. If it isn't, I am glad to make that kind of adjustment. What we did say—as we say in virtually the passage of all legislation—is that we will authorize technical corrections to be made by the staff.

If you have an agreement in principle, you do not have a difference. We have an agreement in principle.

If this language isn't carried forward—and it is language which I believe should be—give us the language, and we will work on it tonight. But I think to delay something that is as important as this is not justified. This subject matter is too important to families in my State, as I am sure it is in Arkansas. That is why I am surprised the Senator from Arkansas is standing with the Senator from New Hampshire and urging delay of this legislation, because it is of such importance. I welcome the fact that he supported it, but we want to get on with this legislation. And I think the sooner we can get on it, the better.

If the Senator wants to work with us and be the agent for the other Senators and work through the evening, we would welcome his intervention in doing that because we want to get on it.

I would be glad to yield to the Senator from Michigan. Then I would be glad to yield the floor and let the Senator speak.

Ms. STABENOW. I thank you the Senator.

First, I commend our chairman, Senator KENNEDY, for his work in bringing this important bill to the floor. I also commend Senator SCHUMER for his leadership.

I say to my friend from Massachusetts, it is my understanding the leader, because of the importance of the issue of not only lowering drug prices for everyone but providing Medicare coverage for prescription drugs, has actually allocated up to 2 weeks on this subject. I would assume we would have ample opportunity to work out any issues and problems that colleagues would have on the other side of the aisle.

But the clock is ticking on the 2 weeks. The sooner we can get to the bill, the sooner we can begin to move through a number of different amendments to be able to get this bill in good shape, to be able to deal with a number of issues, such as those that deal with increasing competition and providing Medicare coverage, and so on.

This is so critical that our leader has, in fact, allocated 2 weeks. So I am very surprised that our colleague from New Hampshire would stop even the beginning of the debate when he knows that it is not a 1-day debate. We are talking about having 2 weeks and as many hours as it takes in that time to be able to work out all of the kinks and to be able to get it right.

I know, coming from Michigan today, working and being in Battle Creek at a senior center and in Kalamazoo at a senior center, that they are watching us very closely. We have had a lot of talk, and if talk bought medicine, people would have a lot of medicine.

It is time to act. I commend the chairman of the committee for acting. I am looking forward to working with him.

Mr. KENNEDY. Mr. President, I will yield the floor in just a moment. I want to be very clear on the RECORD; that is, that the language was provided both to Senator FRIST and Senator GREGG on Thursday afternoon at around 4:15. The first I have heard there was objection to it was 5 minutes before the majority leader's request. I did not hear any objection to it Friday. There was not any objection to it Saturday. There had been no objection to it today, Monday.

It seems to me that if there are objections to it, we ought to be able to clarify the language and move forward it. If people have objections to this legislation, let's hear it. Let's debate it.

I pay special tribute to Senator SCHUMER and Senator MCCAIN. Seniors have been paying too high a price for too long. This is going to make a difference. We have delayed too long in addressing this issue.

So I indicate that we are prepared to work on the language over the evening or tomorrow. But we believe we ought to get about the business of dealing with this legislation.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I will be brief.

First, a specific point. One of the objections was on the language for what we call bioequivalence. In other words, what makes the drug the same drug? I am not a member of the committee, but I sat there as Chairman KENNEDY presided. As I recall, there was a consensus on that issue, which was, let us codify what the FDA does now.

That is what the language was supposed to do. There was not supposed to be a change. There was not supposed to be a wrinkle. There was not supposed to be anything different. And now, all of a sudden, we are hearing an objection based on that provision. I do not quite understand it because there was some discussion early on in the bill that the Senator from Arizona and I introduced about whether bioequivalence was the same. We intended it to be the same, but we were silent. Adding this provision just clarified it.

So there is no new change here, none. To not move forward on the bill on that basis, when there seems to be a complete meeting of the minds of what to do, does not make sense.

The second point is this, and both my colleague from Massachusetts and my able colleague from Michigan, who has been such a leader on this bill, have made it clear: The people are waiting. Every day, every minute, someone—a senior citizen, a family with a child who is ill—approaches the prescription drugstore counter with trepidation wondering what that bill will be.

They want the best drugs for themselves and their loved ones. Yet they are afraid they cannot afford it. They are afraid it means not paying the rent. They are afraid it will mean not buying gasoline for their car.

Here we have a solution. I would not say it is the most breathtaking solution. I would like to see prescription drugs added to Medicare. We are going to have a big fight about that. But it is a solution that makes a real difference, that reduces prices on a large number of drugs, that has some consensus, that does not get into the free market versus price control argument that has plagued us as we have tried to come to some kind of agreement.

So we have a proposal. We are ready to debate it. The majority leader, realizing its importance, has given us plenty of time. And the first thing we hear is objection to moving forward.

Again, as Senator KENNEDY has said, I am willing, as a sponsor of the bill, to be amenable. The more, the merrier. I do not want a partisan victory. I want to get something passed. We have spent a long time trying to work this out, and it is complicated. We know that. But when I hear the first thing done is objection to proceeding—as opposed to somebody calling up the chairman or myself and saying, what did you really mean by this? Shouldn't we dot the i's, cross the t's, and put together an amendment?—I get a little worried.

So I hope this is not an indication of anything in the future. I hope this is an indication that we can try to come together, despite some of our differing views, to work on how to reduce the costs of these wonderful drugs that are so expensive and together bring up a good bill.

With that, Mr. President, I yield the floor.

Mrs. LINCOLN. Mr. President, I rise to applaud the majority leader for his attempt to bring forward this possible solution to help our elderly address the enormous problem that seniors face in drug costs and in getting prescription drug care, to use that bill and that tool of generics and others to try to assist our seniors in dealing with the phenomenal cost and concerns they have in being able to provide for themselves the prescription drugs they actually need for the quality of life we all know they deserve.

We all have parents and grandparents, we have neighbors and loved ones who are suffering from the unbelievable dealings of the increase in cost of prescription drugs. For us in Arkansas, where we don't have many tools at all; we have lost all of the Medicare+Choice plans that served Arkansas. The last two or three left in December, none of which provided a prescription drug package, which means our seniors in Arkansas are basically subsidizing other seniors across this country in their tax dollars. Other seniors in other areas, where a Medicare+Choice plan fits can actually get a prescription drug package because our seniors are subsidizing that. So our seniors in Arkansas are paying top dollar, more than you or I or anybody else who has insurance or who has a program like Medicare+Choice or something else, a Medigap program that is helping to pay for that, are paying more than anybody else for prescription drugs.

That is unheard of. Sixty percent of our seniors in Arkansas tend to need more prescription drugs because, unfortunately, their availability to health care is less. The other thing is their availability to prescription drugs out in rural areas is a lot more difficult. These are people who need assistance. They don't need, as Senator STABENOW mentioned, a lot more discussion, a lot more talk, and a lot more promises. What they need is action.

Unfortunately, what happened tonight was a roadblock that would prevent the kind of action we need in moving forward. We have 2 weeks to debate and talk about the initiatives here for the generics bill and some of the other proposals for prescription drugs but to move this debate forward. That is what seniors are waiting on; they are waiting on a solution. But more importantly, they are waiting on us to begin the debate. Unfortunately, that is what was stopped tonight.

I hope we can all come together and work out whatever differences they may have found from the committee, a bill that passed out in a bipartisan way, but work those details out, hopefully tonight, so maybe we can bring forward, without having to go through the unusual procedural cloture motion to bring something up, that we can begin the debate in earnest and begin to honestly look at the ways we can help the seniors of the Nation.

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

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

ACCOUNTING REFORM

Mr. BROWNBACK. Mr. President, I wish to address the body on an issue of some significant importance to the country. First, good business was done by the Senate today dealing with the accounting situation, the financial trust crisis that we have going on in our country with some of the heads of corporations. I think we have taken a positive step on dealing with that problem.

NORTH KOREA

Mr. BROWNBACK. I want to address the body quickly and briefly but importantly on what is happening in North Korea and to North Korean refugees coming out of that country.

Prior to the July 4th recess, my colleagues, Senator KENNEDY and Senator ALLEN, and I brought to light the plight of North Korean refugees in a hearing before the Immigration Subcommittee. The hearing capped a month of activity that involved the passage of resolution on North Korean refugees in both the House and the Seante. Both resolutions strongly urged the Chinese government not to repatriate North Korean refugees back to North Korea. The House version passed by 406 to 0 and our resolution passed by unanimous consent on June 19, 2002.

At our hearing, we heard some very moving testimony from Ms. Lee Soon-Ok, a North Korean defector who suffered more than five years in a prison camp. We also heard from Ms. Helie Lee, a Korean American writer whose memoir, In the Absence of the Sun, movingly highlighted a largely hidden and painful secret shared by hundreds of thousands of Korean Americans and millions of Koreans—more than 50 years of separation among family members and loved ones since the outbreak of the Korean War. Few other country and its people has suffered as much.

In addition, Mr. President, I urged Secretary Powell in both a formal consultation and by correspondence on the need of our Department of State to allow the processing of North Korean refugees together with the Chinese government and the Beijing office of the United Nations High Commissioner on Refugees.

The plight of North Korean refugees, of course, is merely a symptom of a far more pressing issue—how to deal with one of the most repressive and totalitarian states in the world, the isolated country of North Korea ruled by one man, Kim Jong-il.

Although news regarding the efforts of many in the NGO community and countless others working in North East China have been slowly filtering into the West, the true nature of the North Korean regime is largely hidden and inaccessible.

It was not until the showing of a dramatic video of five members of the Han-mee family being forcibly removed from the Japanese consulate in Beijing that the world began to pay attention. Since then, several other asylum bids have drawn the attention of mainstream media, including the horrifying story of baby-killings in North Korean prison camps reported in the New York Times and based on the testimony of Ms. Soon Ok Lee, who, as I indicated before, testified at our hearing.

In June 2002, ABC Nightime broadcast a three-part documentary of the North Korean refugee in China by Ms. Kim Jung-eun whose schedule did not permit her to testify before our committee. I was told by ABC News staff that thousands of Americans have responded to the broadcast with e-mails in disbelief and in rage against the North Korean regime. I understand that the three programs drew high response from viewers.

It is estimated that between 2 to 3 million people died of starvation and persecution in North Korea from 1995 through 1998 and that up to up to 300,000 North Korean refugees in China are living a precarious and dangerous life, hiding by day, begging by night, in an effort to avoid being captured and repatriated back to North Korea by Chinese and North Korean agents brazenly operating inside China

Of the 300,000 refugees, only 518 refugees successfully defected to South Korea this year through June 2002, many of them by taking refuge at foreign missions in Beijing and in Shenyang, China.

These actions by the Chinese are simply unacceptable, not only to basic principles and tenets of international human rights, but also by the fact that China is a signatory of the International Refugees Convention. Hundreds of South Korean, Japanese and western NGO's are working inside China to help the refugees, risking their lives and capture by the Chinese police. A German doctor who also testified before our committee worked in North Korea for a year and a half but was evicted by the North Korean regime for disclosing the tragedies of the NK people. People like him and others on the ground in China and Korea have been some of the most vocal and active in their effort to make the whole world aware of the conditions in North Korea and China. Many NGO's have taken care of refugee families full-time with their own money.

I've met with many of these people, all of whom are now effectively shut down from operating in China. And what they tell me over and over is that they simply cannot not ignore what they saw. All of them said to me that they could not look away and ignore the refugees, many of whom were too scared to even beg for help.

These NGO's from South Korea, Japan, the U.S., France, and Germany, first reported the tragedy of the North Koreans to the outside world. These NGOs who are in the best position to know report that food aid from South Korea, the U.S., and Japan, simply are not reaching the dying people. As I mentioned in a previous statement, I believe it is absolutely necessary to condition stringent monitoring of the delivery of food aid by NGOs in an effort to determine that they are being distributed appropriately. Much of this aid is apparently being diverted to feed the million-plus North Korean army and to reward the elites and the inner circle around Kim Jong-il in Pyongyang. For this reason, many well-respected NGOs, including Doctors Without Borders have withdrawn from North Korea.

More troubling is that these NGO's have confirmed reports of more than a dozen prison camps in North Korea, where the prisoners are starved, forced to work at hard labor, and tortured to death.

Aside from the troubling refugee issue, we cannot forget that North Korea is a threat to regional and global security. North Korea continues its procurement of materials and components for its ballistic missile programs from foreign sources, especially through North Korean firms based in China. In addition, North Korea has become a ''secondary supplier'' of missile technology and expertise to several countries in the Middle East, South Asia and North Africa. The CIA's 2001 report assesses that North Korea is capable of producing and delivering via missile warheads or other munitions a variety of chemical agents and possibly some biological.

Furthermore, North Korea refuses to carry out its obligations under the Nuclear Nonproliferation Treaty, NPT and the 1994 Agreed Framework. Initial IAEA, International Atomic Energy Agency, inspections and intelligence reports in the early 1990s triggered concerns regarding a clandestine nuclear weapons program. U.S. and foreign intelligence have concluded that the DPRK government of North Korea probably has sufficient plutonium for 1 to 5 nuclear weapons. Despite its obligations under the NPT and the Agreed Framework, North Korea continues to refuse inspections.

So while it would be reason enough to continue our pressure on North Korea and China for the humanitarian violations alone, there are also the pressing security threats that the current North Korean government poses to U.S. interests which must be dealt with. While refugee and nuclear weapons issues will necessitate very different responses—the thing they share in common is the alarms they raise about ignoring the North Korean problem in all its complexity.

While I am mindful of the diplomatic sensitivities regarding the need to reach out to the North Korean regime, there comes a time when we have to confront the truth and tell the truth. Moreover, reconciliation efforts have yet to yield any results. There was

much hope after the historic meeting between President Kim Dae Jung and Jong-il in June 2000, that such a gesture would bring about some meaningful change.

As the naval skirmish last month and the continuing problems with the North Korean refugees show, the North Korean issue has simply worsened. It's time for the North Korean regime to immediately allow international monitoring of food aid into the country and to work with the international NGO community to alleviate the suffering of its people. That may at least stem the tide of refugees crossing over into China and being prey to human traffickers and other difficulties faced by refugees. But more fundamentally, the North regime itself must begin to change itself and join the rest of the world in giving hope and freedom to its people.

The U.S. can not afford to give into the slow-walking of reforms in North Korea. For our own security, for the stability of the region and for the sake of basic human rights—North Korea must remain a top policy focus for U.S. foreign policy. We must keep clear and constant pressure on NK and neighboring countries to bring new leadership into being. This is a daunting task, but one that we can not afford to shirk.

We have significant refugee flight taking place out of North Korea. We have had hearings in the Senate Immigration Committee on this particular topic. We have a humanitarian crisis, probably the largest in the world, that is taking place. We estimate that there are between 2 to 3 million people who have died of starvation and persecution in North Korea from 1995 to 1998, in a 3-year time period—2 to 3 million people. Nobody knows for sure because outside observers are not allowed.

This Nation is the most repressive, closed regime in the world today. The world community is feeding those who are left in North Korea. The United States and a number of other donating countries are feeding about half of the population in North Korea. Much of the food aid we are giving North Korea is not getting out to where it is needed. It is still held by the leadership in that country.

We estimate that some 300,000 North Korean refugees are living in China today in a precarious and dangerous lifestyle. They are hiding by day and begging by night, trying to keep from being caught and sent back into North Korea, which is what China does. If they catch people from North Korea, they treat them as economic migrants and ship them back into starvation, refugee camps, persecution, and probably death.

Of the 300,000 refugees in China, only 518 refugees have successfully defected, gotten out of China and into South Korea or into another third country—that is this year, through June of 2002. Many of them have done it by taking refugee status at foreign missions in Beijing and Shenyang, China. They have rushed embassies in those communities, gotten inside, asked for political asylum, it has been granted, and they passed to South Korea, generally through a third country—many times through the Philippines. I say only 518 this year. If you look at the history since the Korean conflict has ended—now 50 years ago—there have been only several thousand who have defected from North Korea into South Korea. Generally, each year, it has been a trickle—maybe in the teens.

The North Korean regime has been able to keep people in a dogmatic system, saying this regime is the best in the world and saying they are being fed by the President and the leadership. Now that trickle is beginning to really move. They believe it may be up to a thousand; there may be a thousand or more defecting this year alone, which is a massive number considering the history.

Mr. President, the issue I want to bring to light is the role of China and the importance of China in allowing these people to live. If China will allow these people to pass through, or if China will allow the U.N. Commission, or the High Commission on Refugees to establish a processing center to determine if these are people who need to be allowed to pass into third countries, thousands if not millions of people will not have to live in North Korea. If China does not, you are going to see thousands, possibly millions more, die of starvation, persecution, and other causes.

China has a choice. They will choose what the status is going to be, whether these people will live or die. They need to be confronted directly and asked to let these people live, to let them pass through. Let them pass through to Mongolia, to South Korea, to other places; but don't send them back. If they don't want to have them stay in China, allow some place for them to go through, such as a refugee center. But, China, make the choice. It is your responsibility and their blood that will be on your call as to what you determine you are going to do in this particular situation.

North Korea is a country that is difficult for us or anybody else in the world to influence. China is the only country in the world that has some influence on North Korea. So it is going to be their choice as to whether these people will live or die.

North Korea needs to change its regime. I don't need to remind Members of the Senate of the other problems we have with North Korea. They are a supplier of weapons. North Korea has become a secondary supplier of missile technology and expertise to several countries in the Middle East, South Asia, and North Africa. The CIA's 2001 report assesses that North Korea is capable of producing and delivering via missile warheads, or other munitions, a variety of chemical agents and possibly some biological agents as well.

Mr. President, I draw this to the attention of my colleagues because we need to allow refugees to pass and come into the United States as well. We will be bringing this issue up again in front of this body. I hope we will put pressure on China, which doesn't have a good human rights record, so that they can act to save people's lives—if they will only allow these people to pass through.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

PRESCRIPTION DRUG COVERAGE FOR SENIORS

Mr. WYDEN. Mr. President, I am very hopeful the Senate will be able to get on the issue of prescription drug coverage very soon. This is an urgent issue for seniors and the people of this country. I want to spend a few minutes tonight talking about why this is so important and what I think the real challenge is to the Senate in the next couple of weeks.

Mr. President, for the last quarter of the 20th century, the standard Government line on prescription drugs for older people was a little bit like the marquee of the big, old-fashioned theaters you would see downtown. The marquee sign was all lit up and it always read: ''Coming soon.'' But, for seniors, that ''soon'' just never seems to arrive.

Years ago, when I was director of the Oregon Gray Panthers—I had the honor to be co-director for about 7 years before I was elected to the House—I got many of the questions then that all of us in the Senate get now. Seniors asked then, just as they do now at our town meetings, if anybody in Washington is ever going to provide some real help in paying for prescription medicines.

I am very pleased that Senator DASCHLE has made this a priority issue for the Senate. He has made it very clear to me that he is willing to work with anybody in the Senate to finally get this job done and to get it done right.

I think we know what this issue is all about for seniors, and that is the cost of medicine and coverage for medicine. In effect, cost and coverage really go hand in hand because if you are able to get seniors coverage, but you have not held down the cost, then you are not getting a whole lot for the Government's money. Of course, if you take steps to control costs, but many seniors still don't have the ability to meet even those costs, we will continue to have more and more older people fall between the cracks.

So it is important that the Senate addresses both of these issues and addresses them right. I want to talk for a few minutes about what I think some of the key components are first of holding costs down. First, I think it is important that it be done with bargaining power in the private sector. In discussing this—and we will do this over

the next couple of weeks—I want to describe what I was involved in back in the 1970s when I was co-director of the Oregon Gray Panthers.

I remember one rainy night standing with a swarm of seniors around a labor union pharmacy that was barely bigger than a pill box. We were kicking off a program that night where seniors, through labor unions and others in the community, had been able to bargain with pharmaceutical concerns, and seniors were able to get their drugs at cost, plus a small monthly fee. It worked for the company, it worked for the seniors.

The community pulled together, and in this little pharmacy, which I have said was really no bigger than a pill box, we saw that you could set up bargaining power right in the private sector. I think tonight, how many more older people in this country need the benefits of bargaining power today? So I am very hopeful that on this question of cost containment we focus on bargaining power.

Senator DASCHLE made it clear that it is a priority to him. He will work with all our colleagues to make sure that is in a final bill and that we remember that across this country, and that what happened in Eugene, OR, more than 25 years ago has been duplicated elsewhere, and that what happened there is all about making sure people could have bargaining power in the private sector so that senior citizens can afford their medicine.

The underlying legislation that is going to give all Americans—not just seniors, but all Americans—quicker access to generic drugs is another step toward private sector cost containment. I commend my colleagues—Senator SCHUMER, Senator MCCAIN, and others—who have worked so hard on this legislation.

After I had the honor of serving as codirector of the Gray Panthers, I served on the Health Subcommittee in the House of Representatives, and we had a chance to work on what I thought was historic legislation. It was drafted by our distinguished colleague, the senior Senator from Utah, ORRIN HATCH, and Congressman WAXMAN. It struck a good balance between holding down costs for seniors by making it easier to get access to generic medicine, while at the same time promoting innovation and research in the breakthrough products that are so important to seniors in this country.

I believed the Congress got it right in that Hatch-Waxman legislation and that the legislation we will be considering over the next couple of weeks is going to continue that kind of balance. We may try to refine it, and I am certainly open to that, but I think it will continue that crucial balance that was put together in the historic Hatch-Waxman legislation of helping to contain the costs for seniors and others through access to generic medicine, while at the same time promoting the new cures, the new research, the exciting breakthrough products that are so important.

What I have tried to contribute to the Senate on prescription drugs has been an effort to come up with solutions that are going to work in the real world for Americans trying to navigate our health care system. In the past two sessions of the Congress, Senator SNOWE and I have introduced bipartisan legislation. Tonight for just a few minutes, I want to express my appreciation to Senator DASCHLE and others in the leadership because the bill they will try to offer when we get to the question of Medicare coverage for seniors has been a genuine effort to address each of the concerns Senator SNOWE and I have focused on in our legislation.

When we get to that question, we are sure to have Members say this country cannot afford such coverage. They are going to say that the costs have already accelerated today; that we are having a demographic tsunami coming in just a few years, with millions of more older people in 2009, 2010, and 2011 retiring, and they are going to say the country cannot afford for the Congress to cover prescription drugs for older people.

I want to make it clear that, in my opinion, the Congress cannot afford not to cover senior citizens, and I want to give a short example of why this is so urgently needed.

Not long ago, a physician in Hillsboro, OR, in the metropolitan area surrounding Portland, wrote to me that he put a senior citizen in a hospital for a 6-week course of antibiotics because it was the only way the patient could afford the treatment.

Of course, when the senior goes into the hospital, Medicare Part A, which covers institutional services, picks up the bill, no questions asked. The check gets written by the program to cover the costs in the hospital. Of course, that same condition could have been treated under Medicare Part B, the outpatient portion of Medicare. Our assessment is that to spend 6 weeks in an Oregon hospital probably cost the Medicare Program $40,000, $50,000, $60,000, to pick up those huge costs for an individual who had to be hospitalized to get the benefit, whereas it probably would have cost a few hundred dollars to have treated that person on an outpatient basis under Part B of the Medicare Program.

When we hear in this Chamber and elsewhere that America cannot afford to cover prescription drugs for seniors, I am going to do my best to remind people about what I heard from that physician in Hillsboro, OR, and it has been repeated all over this country, because I think it is clear we cannot afford not to have this important program.

We know what needs to be done in the next few weeks. We ought to promote easier access to generics. It is one of the key parts of the equation of doing this right. We ought to make sure that seniors have bargaining power in the private sector.

The model that will be used in the legislation Senator GRAHAM and Senator MILLER have drafted incorporated much of what I and Senator SNOWE have been concerned about, and that is to make sure that bargaining power is structured in the private sector so that costs are not shifted to millions of other Americans. There is no Senator who wants, in the effort to come up with a prescription drug proposal for seniors, to end up shifting costs on to their children and their grandchildren. That is why private sector bargaining power, something about which I and Senator SNOWE have felt strongly, and Senator DASCHLE has graciously worked with us on, is included in what the Senate is going to have a chance to vote for.

Those are some of the key questions. I will wrap up by way of saying that as we move into this discussion over the next couple of weeks, we have one principal challenge as we try to pass a comprehensive bill and then have it go to discussions with our colleagues in the House, and that is to make it clear to the country that this is a real effort to help, and not just an exercise in election-year rhetoric. The seniors who have come to us at our meetings have watched this Congress and other Congresses debate this topic and come back to it sporadically from time to time. They want to know: Is this on the level? Is this a real effort now to do the job right? I believe it is. I believe the commitment is there now and that this is not just an election-year exercise.

There are key principles. We have an opportunity to address the questions of cost and coverage in a way that can win the support of colleagues on both sides of the aisle. The question of private sector bargaining power, ensuring that the program is voluntary so that any senior who is comfortable with their existing coverage can continue it if they choose to do otherwise—these are principles that are going to be in the Graham-Miller proposal that can win the support of colleagues on both sides of the aisle.

These are principles that can bring the Senate together. Let us make sure that at the end of this 2-week period, when we have had the opportunity to help seniors and help all Americans with respect to the cost of medicine, we do not let this opportunity slip away once again.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators allowed to speak therein for a period not to exceed 10 minutes each.

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

IN MEMORY OF LEW WASSERMAN

Mr. DASCHLE. Mr. President, this is not a happy day for America. On this day occurs a memorial service for Lew Wasserman, who died in his 89th year. He is one of the two giants of the American free enterprise system who for over 60 years helped shape and build one of America's greatest export trade prizes and an extraordinary engine of economic and creative growth: The American film industry. He was a pioneer of great intellect and innovation. He could see what others could not, for he had the gift of vision, both rare and valuable.

He was more than that. He was a patriot in a shining sense of that word. He cared about his country and all who live in it. He believed in the American free market system. He was appalled at the behavior of those executives who knowingly soiled the honor and integrity of that system.

He and his wife, Edie, believed in young people and lavished millions of dollars in scholarships on them at a dozen universities on a continuing basis. His heart and his purse went without hesitation to the Motion Picture Home and Hospital, giving it millions of dollars so that those in the movie industry, hard-working craftsmen, artisans, and creators, when they became old and sick, could be cared for.

More millions were conferred anonymously. Lew never sought the spotlight because fame was not his goal nor publicity his guide. He had an old-fashioned view about loyalty. He never turned his back on a friend nor did he ever break his word once given to an individual, to a cause, to his country. Those who worked with him revered him because he never considered himself their leader but, rather, one who served his employees and their company.

There are many in this Congress today who can bear personal witness to his commitment to be of service to the Nation. He was the personal friend of Presidents from John Kennedy, Lyndon Johnson, to Bill Clinton. I daresay if God granted him the time, he would have known and served George W. Bush. To me, personally, he was invariably kind, thoughtful, responsive to my requests for counsel and his wise judgment. He never asked me for a thing. He was, to my mind, the exemplar of the man who wants to give back more than he gained, to give back to his neighborhoods, his industry, to the young whose hopes are slender, to offer more than he has asked for, to strive always to try to make the future of this country a favorite and favorable place for generations of Americans yet unborn.

He shunned tributes, but he was proud of the Presidential Medal of Freedom bestowed on him by President Clinton. If he had not just bought Universal Studios, he would have accepted the Cabinet post offered to him by President Johnson. He is truly one of those unique human beings whose like is seldom found, which is why his loss is so profound to this Nation. I miss him. I thank him for being my friend. And I wish his family Godspeed during these difficult times.

I yield the floor.

Mrs. CLINTON. Mr. President, on June 3, our Nation lost one of its finest citizens. Lew Wasserman, long time president and chairman of MCA and friend of Presidents, died at the age of 89.

Lew came from humble roots, but never forgot those less fortunate than he. An entertainment industry visionary and modern day mogul, Lew Wasserman, along with his wonderful wife, Edie, used their position and resources to support hospitals and cultural institutions; to provide scholarships to young people; to fund research to prevent blindness; and to support political candidates in whose leadership they believed. In a rough and tumble industry, he believed in fairness and thoughtful mediation, and he cared passionately about our political system and democratic ideals.

Lew Wasserman was a mentor and role model to an entire industry and a great friend to Presidents of both parties, including my husband. I was honored that he was my friend; but, even more than that, I was grateful for his many contributions to America.

On September 29, 1995, my husband awarded Lew Wasserman the Presidential Medal of Freedom. In his remarks, the President said of Lew:

> I have met a lot of philanthropists and successful people in my life. I don't know that I ever met anybody that more consistently every day looked for another opportunity to do something for somebody else, to give somebody else the chance to enjoy the success that he had in life. I thank you, Lew Wasserman.

UNIVERSITY OF DREAMS

Mr. DASCHLE. Mr. President, I recently attended the ribbon-cutting of an exciting new store in Bristol, SD. It was a joyous occasion. The entire town turned out and it looked as good as I've ever seen it look in more than a quarter-century.

The ''South Dakota Made Store'' will sell foods, crafts, and art from all over our beautiful State. It is an exciting addition to Bristol and northeastern South Dakota.

The program included a recitation of an inspirational poem by its author. He is a very young man whose name is Ryan A. Anderson. The title of the poem is ''University of Dreams.''

I know my colleagues will be as impressed with his beautiful words as I was. His talent and extraordinary ability as a poet of any age is an inspiration to us all.

I ask unanimous consent that ''University of Dreams'' be printed in the RECORD.

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

UNIVERSITY OF DREAMS

(By Ryan A. Anderson)

One seed can bear a stunning bloom
One spice can blend some revitalizing perfume
One individual can devise an entire scheme
One coach can pilot a basketball team

One gift can heal a hurting soul
One smile can let another's day unroll
One picture can explain an entire stance
One song can exchange for your last dance

One god can create massive seas
One god can produce ceaseless trees
One god can establish geographical extremes
One god, our God, can establish a
University of Dreams

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 June 10, 2000, in Albuquerque, NM. A man in a minivan yelling obscenities ran down participants in a gay pride parade. One victim was hit twice in the knees and thrown off the hood. The perpetrator tried to swerve into the crowd three times before police finally pulled him out of the vehicle and arrested him.

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.

Mr. SARBANES. Mr. President, I rise to note the release on July 15, 2002 of the first annual report of the U.S.-China Security Review Commission.

Shortly after the enactment in the year 2000 of legislation giving China Permanent Normal Trade Relations, PNTR, the Congress, thanks to the leadership of Senator ROBERT C. BYRD, passed legislation creating the U.S.-China Security Review Commission. According to the law that established the Commission, its purpose is to ''monitor, investigate and report to the Congress on the national security implications of the bilateral trade and economic relationship between the

United Stats and the People's Republic of China''. The legislation which created the Commission charges it to submit an annual report to the Congress with recommendations for action, if any.

The bi-partisan Commission is composed of twelve commissioners, three of whom were appointed by each of the Congressional leaders in both the House and Senate. To prepare itself to issue its first Report the Commission held nine open hearings and took testimony from 115 witnesses on 35 separate panels. It also contracted for new research on China from a variety of sources including extensive translation and analysis of articles on economic, political, and trade issues that are appearing in influential Chinese publications. Members of the Commission also traveled to China, Taiwan, Japan, and the headquarters of the World Trade Organization, WTO, in Geneva. During its deliberations the Commission developed a broad bi-partisan agreement on the issues it was charged by Congress to study, and it adopted its first report by a vote of 11–1.

Among its key findings are that the United States, by acting as China's largest export market and a key investor in the Chinese economy, has been a major contributor to China's rise as an economic power. It further notes that our trade relationship with China is not only our largest trade deficit in absolute terms, but is the most unbalanced trading relationship maintained by the United States.

The Report further notes that while U.S. imports from China constitute over 40 percent of China's exports, U.S. exports to China represent only two percent of our total exports. It finds that the U.S. trade deficit with China is not only in low-skilled labor intensive items, but also in a majority of items found on the Commerce Department's list of advanced technology products. It further finds that there is plausible evidence that our burgeoning trade deficit with China will worsen regardless of China's entry into the WTO.

The Report also discusses the fast increasing trade and investment linkages between China and Taiwan which the Commission notes ''could ameliorate tensions between the two'', but which are also increasing ''U.S. dependence on the items made in China for our computer electronics and other high technology products''.

The Report makes a number of recommendations to better the chances for building a better long-term mutually beneficial economic and political relationship with China. Among these are: 1. That we put in place new programs to build a much wider expertise about China both in our society and among policymakers, and 2. that we take new measures to keep our industrial, scientific, and technological base from eroding as a result of our economic relations with a China whose government has adopted policies to expand its own base even at our expense.

I think this first Report of the Commission makes a very valuable contribution to our policy deliberations on China. It will be very helpful to the Congress as we examine how to respond to the challenges to our country posed by China's strengthening economic, military, and political profiles. We can best craft sensible policies if we better understand the perceptions that Chinese leaders have of us and what their long-term goals are. Judging the Commission's Report will help us do both.

I salute Senator BYRD for his wisdom in calling for the creation of the Commission and thank all of its Commissioners for the important contributions that their first Report makes to our knowledge of the U.S.-China economic and political relationship. I commend the Report to my fellow Senators.

CLEARING THE AIR IN THE SMOKIES

Mr. FRIST. Mr. President, the Great Smoky Mountains National Park is truly the crown jewel of our national park system. With towering mountains, clear streams, and a diversity of wildlife, Tennessee is fortunate to have such a tremendous treasure in our own backyard. During the Senate's July break, I returned to the Smokies, to once again hike Mt. LeConte, this year with my oldest son, Harrison. Our hike up the Alum Cave trail was exhilirating, and we spent the night at LeConte Lodge, watching the sunset, and enjoying the hearty meals and good fellowship of fellow hikers.

My trip to the Smokies this month had another purpose, too. This year, I invited EPA Administrator Christie Whitman to join me in order for her to see first-hand the air quality problem that plagues our beautiful park. Over the coming months, Congress and President Bush's Administration will analyze and pursue policies to improve our nation's air quality. As this process moves forward, I wanted to make sure that the President's top official responsible for protecting our environment heard directly from park officials and saw for herself the unique challenge facing the Smokies.

As the first EPA Administrator to ever visit the park, Administrator Whitman demonstrated her personal commitment to address the pollution problem. We hiked to the park's highest point, Clingman's Dome, where Administrator Whitman looked out on a vista where natural visibility should be about 77 miles, but on the hot July day we visited, was reduced to only 15 miles. Air entering the southern Appalachians is trapped by geography and weather patterns, capturing pollution and harmful emissions in the park, and no where is that point made more clear than at Clingman's Dome.

Any plan to clean up the air in the Great Smoky Mountains National Park must contain two essential elements. First, we must reduce harmful emissions of sulfur dioxide and nitrogen oxides. President Bush has proposed a plan, the Clear Skies Initiative, that contains the most dramatic reductions in these harmful emissions ever proposed by an administration. The plan would reduce power plant emissions by 70 percent by the year 2018. I will continue to closely study the Clear Skies Initiative and its potential impact on our mountains and across our state.

Second, we must reduce emissions in the most efficient and effective manner possible. Our quality of life and future economic development depends on how we pursue these reductions. Tennessee's families, businesses and communities depend on affordable and reliable energy. A thoughtful and responsible approach to address the park's air quality issue requires us to closely examine any proposal and to ensure it is based on sound science. Tennesseans and all Americans deserve no less from their elected officials.

It is also important to remember that air quality is a comprehensive problem that requires a comprehensive response. Roughly, one-half of the problems in the Smokies are caused by power plants, one third by cars and trucks, and the rest from various other sources. As we review solutions, we must address every source of emissions. For example, I want to commend local officials for Pigeon Forge's recent Clean Air Week which promoted reducing emissions through the use of low emissions public transportation. Park officials are looking at alternatives to transportation problems in the park, which will not only clean up the air, but enhance the overall visitor's experience. Continued discussion by all, local, State and federal officials along with concerned citizens, will ensure the most innovative, common-sense solutions and ensure we do what's right for the Smokies.

Tennesseans are blessed with an abundance of natural resources, and the Great Smoky Mountains National Park is world-renowned. However, we must be mindful that if we are to continue to enjoy the Smokies, all of us have a responsibility to be good stewards of the park. I am committed to fight for what is best for the Smokies, and I am encouraged by Administrator Whitman's recent visit. The Smokies are a unique American experience that must be preserved for generations to come, so that fathers and sons, just like Harrison and I, can know the joys of spending time together on a hike in the woods.

CRIMINAL PENALTIES RELATING TO TERRORIST ATTACKS

Mr. LEAHY. Mr. President, due to time constraints, the Congressional Budget Office, CBO, estimate was not included in the report to accompany S. 2621, an act to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems. The report is

now available and, therefore, I ask unanimous consent that the attached CBO estimate be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 27, 2002.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2621, an act to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

BARRY B. ANDERSON,
[FOR DAN L. CRIPPEN, DIRECTOR.]

Enclosure.

Congressional Budget Office cost estimate—S. 2621—an act to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems.

As passed by the Senate on June 25, 2002.

The USA PATRIOT Act of 2001 (Public Law 107–56) established a new federal offense for acts of violence against mass transportation systems. S. 2621 would clarify the definition of the term ''vehicle'' as used in that act. CBO estimates that implementing S. 2621 would result in no significant costs to the federal government. The legislation could affect direct spending and receipts through greater collections of criminal fines, so pay-as-you-go procedures would apply. However, CBO estimates that any effects on direct spending or receipts would be significant because of the small number of cases likely to be affected.

S. 2621 contains on intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

ADDITIONAL STATEMENTS

RETIREMENT OF DR. VAN KIRKE NELSON

• Mr. BAUCUS. Mr. President, I rise today to recognize an outstanding Montanan whose distinguished career has literally changed the course of two generations of families in the Flathead Valley. In the 1950's a college student from Southern California came to Montana to be a camp counselor on Flathead Lake. As many do, he fell in love with the area and pledged to return after completing medical school to begin his practice in Kalispell, MT.

True to his word, Dr. Van Kirke Nelson, his wife Helen and their children Greg, Julie and Kathy packed all their belongings in a beer truck and moved to Kalispell where Kirke became the town's first medical specialist, opening his practice as an OB-GYN in 1962.

Forty years, two children, Nancy and Doug, and ten grandchildren later, my dear friend Kirke Nelson retired from active medical practice on July 1, 2002, leaving behind a legacy that has enriched the very fabric of the community to which he and his family mean so much.

For 40 years, Dr. Van Kirke Nelson delivered the town's babies. Lots of babies. So many, in fact, that it is not unusual for him to look at a list of Flathead High graduates and determine that he has delivered a majority of them.

Think of it this way. At 10 babies a month, 12 months a year, for 41 years, Kirke delivered roughly 4,920 babies in his career. To put that in perspective, those 4,920 new Montanans are a larger group than the entire population of 22 of Montana's 56 counties.

But the quality of Kirke's career cannot be measured in numbers. Every day he changed lives and made the Flathead Valley and Montana a better place to live. Partners, co-workers, patients and their families all know what I mean. There are more stories than one can possibly tell, and you can be assured that although he is retired, there will be many, many more stories yet to come.

Because you see, Kirke Nelson will never retire from making a difference in the world around him. The phone may not ring in the middle of the night anymore, but knowing Kirke as I do, that just means he'll just be better rested for the challenges that lay ahead.

I know no better Montanans than Kirke and Helen Nelson. I wish for them in this retirement an enriched life with each other and their wonderful family. There are not thanks enough for this kind of career that Kirke has shared with us, but that's what makes America so great. Ours is a country where dreams come true. Where promises are our bond. And where ordinary careers become extraordinary because of the people who live them.

Kirke Nelson's career has been truly extraordinary. And on behalf of a grateful community, State and nation, it is my honor to rise today to say thank you.•

IN RECOGNITION OF WESLEY COLLEGE ATHLETICS, COACH RICK McCALL AND CHRIS NOLL, 2002 NCAA NATIONAL GOLF CHAMPIONS

• Mr. CARPER. Mr. President, I rise today to congratulate Wesley College's Chris Noll, the 2002 NCAA National Golf Champion. His victory demonstrates the success that comes from hard work, perseverance, experience of a remarkable team, a dedicated coach, and the support of an outstanding college.

The championship competition held in Nebraska last month ended a dramatic, record-breaking season for the Wolverines. After a stellar overall performance throughout the year, the Wolverines were selected by a committee to play in the NCAA Championships. At the championship, they scored their highest finish in both Wesley records and in Pennsylvania Athletic Conference history. The team dominated the Conference and won the Pennsylvania Athletic Conference Tournament.

Throughout the season, Chris Noll set Wesley College records. He finished first in the Glen Health Ship Builders, the Wesley College Invitational, the King's College National Invitational tournaments and the District II Championships. The Dover sophomore was named Pennsylvania Athletic Conference Player of the Week for four consecutive weeks in addition to a Ping All-American. He closed the season as the 2002 NCAA National Golf Champion.

For the past decade Wolverine Coach Rick McCall has worked tirelessly to successfully build and strengthen the men's golf program. McCall was named All-Middle Atlantic Region Coach of the Year this season, as well as the Pennsylvania Athletic Conference Coach of the Year. In 1989 he won the Delaware State Golf Association Annual Golf Award. Later he was given the Pat Knight Award for his lifetime contribution to junior golf and two Philadelphia P.G.A. Junior Golf Awards. He is dedicated to the game.

The success of Wesley's golf team is indicative of the depth of the community's support, and the caliber of students, faculty, and staff at the College. I commend those associated with Wesley College athletics for their commitment to preparing athletes for success both on and off the court.

Today, I congratulate Coach Rick McCall, Chris Noll and all of the fine athletes on the golf team. Athletics play a vital role in the development and integrity of students. Wesley College athletes prove that the school's emphasis on the ''carry-over value of athletics'' is warranted. I am proud of their achievements as student-athletes.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, 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 treaties and 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 5:30 p.m., a message from the House of Representatives, delivered by

Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it request the concurrence of the Senate:

H.R. 4687. An act to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 4635. An act to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

H.R. 4954. An act 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.

H.R. 5017. An act to amend the Temporary Emergency Wildfire 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.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2. A bill to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, 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–7861. 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 Georgia: Approval of Revisions to State Implementation Plan'' (FRL7244–5) received on July 9, 2002; to the Committee on Environment and Public Works.

EC–7862. 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 Georgia: Approval of Revisions to State Implementation Plan'' (FRL7244–7) received on July 9, 2002; to the Committee on Environment and Public Works.

EC–7863. 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; Indiana'' (FRL7235–2) received on July 9, 2002; to the Committee on Environment and Public Works.

EC–7864. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Designation of Areas for Air Quality Planning Purposes; Deletion of Total Suspended Particulate Designations in Michigan'' (FRL7242–8) received on July 9, 2002; to the Committee on Environment and Public Works.

EC–7865. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Designation of Areas for Air Quality Planning Purposes; Deletion of Total Suspension Particulate Designations in Minnesota'' (FRL7242–6) received on July 9, 2002; to the Committee on Environment and Public Works.

EC–7866. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for olyvinyl Chloride and Copolymers Production'' (FRL7243–9) received on July 9, 2002; to the Committee on Environment and Public Works.

EC–7867. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances'' (FRL7244–1) received on July 9, 2002; to the Committee on Environment and Public Works.

EC–7868. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''1259 Short Sale'' (Rev. Rul. 2002–44, 2002–28) received on June 24, 2002; to the Committee on Finance.

EC–7869. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Tax Avoidance Using Inflated Basis'' (Notice 2002–21) received on June 26, 2002; to the Committee on Finance.

EC–7870. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Update of Mortality Tables for 417(e)'' (Rev. Rul. 2001–67) received on July 9, 2002; to the Committee on Finance.

EC–7871. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''EGTTRA Changes in User Fees'' (Notice 2002–1) received on July 9, 2002; to the Committee on Finance.

EC–7872. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Questions and Answers Regarding Dividend Elections Under Section 404(k)'' (Notice 2002–2) received on July 9, 2002; to the Committee on Finance.

EC–7873. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 846 Discount Factors for 2001'' (Rev. Proc. 2001–60) received on July 9, 2002; to the Committee on Finance.

EC–7874. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''CPI Adjustment for Section 7872(g) for 2002'' (Rev. Rul. 2001–64) received on July 9, 2002 ; to the Committee on Finance.

EC–7875. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 832 Discount Factor for 2001'' (Rev. Proc. 2001–61) received on July 9, 2002; to the Committee on Finance.

EC–7876. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''2002 CPI Adjustment for Certain Loans Under Section 1274A'' (Rev. Rul. 2001–64) received on July 9, 2002; to the Committee on Finance.

EC–7877. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Coordinated Issue: Replacement of Underground Storage Tanks at Retail Gasoline Stations'' (UILN 263.23–00) received on July 10, 2002; to the Committee on Finance.

EC–7878. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Elimination of the Tariff-Rate Quotas on Imported Lamb Meat'' (RIN1515–AD09) received on July 11, 2002; to the Committee on Finance.

EC–7879. A communication from the Director, Employment Service, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Reduction in Force Retreat Rights'' (RIN3206–AJ14) received on June 26, 2002; to the Committee on Governmental Affairs.

EC–7880. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''Debt Collection'' (RIN3095–AA77) received on July 9, 2002; to the Committee on Governmental Affairs.

EC–7881. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''Nixon Presidential Materials; Reproduction'' (RIN3095–AB07) received on July 9, 2002; to the Committee on Governmental Affairs.

EC–7882. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2001 to March 31, 2002; to the Committee on Governmental Affairs.

EC–7883. A communication from the Administrator, General Service Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2001 through March 31, 2002 together with a report providing management's perspective on the implementation status of audit recommendations; to the Committee on Governmental Affairs.

EC–7884. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–388, ''College Savings Program Temporary Act of 2002''; to the Committee on Governmental Affairs.

EC–7885. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–389, ''Mental Health Commitment Clarification Temporary Act of 2002''; to the Committee on Governmental Affairs.

EC–7886. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–387, ''Excepted and Executive Service Domicile Requirement Amendment

Act of 2002''; to the Committee on Governmental Affairs.

EC–7887. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–385, ''Washington Convention Center Authority Oversight and Management Continuity Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–7888. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–384, ''Capitol Hill North Expansion and Expansion of Business Improvement Districts Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–7889. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–399, ''Human Rights Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–7890. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–398, ''RLA Revitalization Corporation Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–7891. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–403, ''Fiscal Year Budget Support Act of 2002''; to the Committee on Governmental Affairs.

EC–7892. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Mesotrione; Pesticide Tolerances for Emergency Exemptions'' (FRL7184–2) received on July 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7893. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Halosulfuron; Pesticide Tolerances for Emergency Exemptions'' (FRL7283–2) received on July 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7894. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Extension of Tolerances for Emergency Exemptions Multiple Chemicals'' (FRL7183–6) received on July 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7895. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Hazelnuts Grown in Oregon and Washington; Establishment of Interim Final and Final Free and Restricted Percentages for the 2001–2002 Marketing Year'' (Doc. No. FV02–982–1 FIR

EC–7896. A communication from the Administrator, Research and Promotion Branch, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice and Procedure Governing Proceedings Under Research, Promotion, and Education Programs'' (Doc. No. FV–02–709) received on July 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7897. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and Food Stamp Provisions of the Balanced Budget Act of 1997'' (RIN0584–AC45) received on July 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on Foreign Relations:

Report to accompany S. 2487, A bill to provide for global pathogen surveillance and response. (Rept. No. 107–210).

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. GRASSLEY (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. BREAUX, Mr. HATCH, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, and Mr. DOMENICI):

S. 2. A bill to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes; read the first time.

By Mr. DAYTON (for himself and Mr. WELLSTONE):

S. 2728. A bill to provide emergency agricultural disaster assistance; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRASSLEY (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. BREAUX, Mr. HATCH, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, and Mr. DOMENICI):

S. 2729. A bill to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 490

At the request of Mr. EDWARDS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 490, a bill to provide grants to law enforcement agencies that ensure that law enforcement officers employed by such agencies are afforded due process when involved in a case that may lead to dismissal, demotion, suspension, or transfer.

S. 554

At the request of Mrs. MURRAY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 554, a bill to amend title XVIII of the Social Security Act to expand medicare coverage of certain self-injected biologicals.

S. 677

At the request of Mr. HATCH, the name of the Senator from California (Mrs. BOXER) 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. 701

At the request of Mr. BAUCUS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to provide special rules for the charitable deduction for conservation contributions of land by eligible farmers and ranchers, and for other purposes.

S. 913

At the request of Ms. SNOWE, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 917

At the request of Ms. COLLINS, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 1042

At the request of Mr. INOUYE, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1042, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 1394

At the request of Mr. ENSIGN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1581

At the request of Mr. MURKOWSKI, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1581, a bill to amend the Internal Revenue Code of 1986 to allow a business deduction for the purchase and installation of qualifying security enhancement property.

S. 1678

At the request of Mr. MCCAIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1686

At the request of Mr. KENNEDY, the name of the Senator from Rhode Island

(Mr. REED) was added as a cosponsor of S. 1686, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the medicare program.

S. 1868

At the request of Mr. BIDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1868, a bill to establish a national center on volunteer and provider screening to reduce sexual and other abuse of children, the elderly, and individuals with disabilities.

S. 2204

At the request of Mr. EDWARDS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2204, to amend the Public Health Service Act to improve treatment for the mental health and substance abuse needs of women with histories of trauma, including domestic and sexual violence.

S. 2219

At the request of Mr. EDWARDS, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2219, a bill to provide for compassionate payments with regard to individuals who contracted the human immunodeficiency virus due to provision of a contaminated blood transfusion, and for other purposes.

S. 2425

At the request of Mr. BAYH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2425, a bill to prohibit United States assistance and commercial arms exports to countries and entities supporting international terrorism.

S. 2480

At the request of Mr. LEAHY, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from North Dakota (Mr. DORGAN) 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. 2528

At the request of Mr. DOMENICI, the name of the Senator from Kansas (Mr. ROBERTS) 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. 2533

At the request of Mrs. FEINSTEIN, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 2533, a bill to amend title II of the Social Security Act to provide for miscellaneous enhancements in Social Security benefits, and for other purposes.

S. 2559

At the request of Mr. EDWARDS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2559, a bill to expand research for women in trauma.

S. 2611

At the request of Mr. REED, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2611, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 2613

At the request of Mr. LIEBERMAN, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Tennessee (Mr. FRIST) were added as cosponsors 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. 2626

At the request of Mr. KENNEDY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2626, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 2647

At the request of Ms. SNOWE, the name of the Senator from Wisconsin (Mr. FEINGOLD) 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. 2663

At the request of Mr. MCCAIN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2663, a bill to permit the designation of Israeli-Turkish qualifying industrial zones.

S. 2671

At the request of Mr. EDWARDS, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2671, a bill to amend the Child Care and Development Block Grant Act of 1990 to provide for child care quality improvements for children with disabilities or other special needs, and for other purposes.

S. 2672

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2672, a bill to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands, and for other purposes.

S. 2714

At the request of Mrs. CLINTON, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2714, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2002.

S. 2715

At the request of Mrs. CLINTON, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2715, a bill to provide an additional extension of the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief an Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001.

S. RES. 242

At the request of Mr. THURMOND, the names of the Senator from Rhode Island (Mr. REED), the Senator from Kansas (Mr. BROWNBACK), the Senator from North Carolina (Mr. HELMS), the Senator from Illinois (Mr. FITZGERALD) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as ''National Airborne Day''.

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. Con. Res. 11, a concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. CON. RES. 107

At the request of Mr. CRAIG, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Con. Res. 107, a concurrent resolution expressing the sense of Congress that Federal land management agencies should fully support the Western Governors Association ''Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment'', as signed August 2001, to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National prescribed Fire Strategy that minimizes risks of escape.

S. CON. RES. 122

At the request of Ms. SNOWE, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from New Jersey (Mr. CORZINE) 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. 4235

At the request of Mr. ALLEN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 4235 intended to be proposed to S. 2673, an original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

AMENDMENT NO. 4240

At the request of Mr. ALLEN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 4240 intended to be proposed to S. 2673, an original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

AMENDMENT NO. 4241

At the request of Mr. ALLEN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 4241 intended to be proposed to S. 2673, an original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

AMENDMENT NO. 4283

At the request of Mr. LEVIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of amendment No. 4283 intended to be proposed to S. 2673, an original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

NOTICES OF HEARINGS/MEETINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LEVIN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Government Affairs will hold hearings entitled ''The Role of the Financial Institutions In Enron's Collapse.'' These hearings are a continuation of Subcommittee hearings on the collapse of Enron Corp., focusing on the role of major financial institutions and how they contributed to Enron's use of complex transactions to make the company look better financially than it actually was.

The hearing will take place on Tuesday, July 23, and Tuesday, July 30, 2002, at 9:30 a.m. each day, in room 342 of the Dirksen Senate Office Building. For further information, please contact Elise J. Bean of the Subcommittee staff at 224–9505.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 23, 2002, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills: S. 2494, to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes; S. 2598, to enhance the criminal penalties for illegal trafficking of archaeological resources, and for other purposes; S. 2727, to provide for the protection of paleontological resources on Federal lands, and for other purposes; and H.R. 3954, to designate certain waterways in the Caribbean National Forest in the Commonwealth of Puerto Rico as components of the National Wild and Scenic Rivers System, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the Committee staff at (202) 224–9863.

PRIVILEGES OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Deborah Forbes of the Labor Committee be given access of the floor during deliberation of this legislation.

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

Mr. ENZI. Mr. President, I ask unanimous consent that privilege of the floor be granted to Joe Laird during the remainder of the debate and the votes on this bill we are considering.

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

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENTS NOS. 107–12 and 107–13

Mr. REID. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaties transmitted to the Senate today by the President of the United States:

Treaty with Sweden on Mutual Legal Assistance in Criminal Matters, Treaty Document No. 107–12;

Treaty with Belize on Mutual Legal Assistance in Criminal Matters, Treaty Document No. 107–13.

I further ask unanimous consent that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

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

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Kingdom of Sweden on Mutual Legal Assistance in Criminal Matters, signed at Stockholm on December 17, 2001. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including terrorism, drug trafficking, and fraud and other white-collar offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: locating or identifying persons or items; serving documents; taking the testimony or statements of persons; transferring persons in custody for testimony or other purposes; providing documents, records, and items; executing requests for

searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets and restitution; initiating criminal proceedings in the Requested State; and any other form of assistance consistent with the purposes of this Treaty and not prohibited by the laws of the State from whom the assistance is requested.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

THE WHITE HOUSE, *July 15, 2002*.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of Belize on Mutual Legal Assistance in Criminal Matters, signed at Belize on September 19, 2000, and a related exchange of notes signed at Belize on September 18 and 22, 2000. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including drug trafficking, money laundering, and terrorism offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the providing documents, records, and articles of evidence; locating or identifying persons; serving documents; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets, restitution to the victims of crime and collection of fines; and any other form of assistance not prohibited by the laws of the State from whom the assistance is requested.

I recommend that the Senate give early and favorable consideration to the Treaty, and give its advice and consent to ratification.

THE WHITE HOUSE, *July 15, 2002*.

MEASURE READ THE FIRST TIME—S. 2

Mr. REID. Mr. President, I understand that S. 2, the 21st Century Medicare Act, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2) to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes.

Mr. REID. I ask for its second reading and then would object to my own request.

The PRESIDING OFFICER. The objection having been heard, the bill will receive its second reading on the next legislative day.

MEASURE RETURNED TO THE CALENDAR—S. 2673

The PRESIDING OFFICER. Under the previous order, passage of S. 2673 is vitiated. The bill is returned to the calendar.

ORDERS FOR TUESDAY, JULY 16, 2002

Mr. REID. Mr. President, I appreciate the Senator from Alabama allowing us to do the closing before his remarks.

I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Tuesday, July 16; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each; with the first half under the control of the Republican leader or his designee and the second half of the time under the control of the majority leader or his designee; that at 10:30, the Senate resume consideration of the motion to proceed to S. 812 regarding affordable pharmaceuticals; further, that the Senate recess from 12:30 to 2:15 p.m. for the weekly party conferences.

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

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment following the remarks of the Senator from Alabama, Mr. SESSIONS, under the previous order.

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

PRESCRIPTION DRUGS

Mr. SESSIONS. Mr. President, I thank the Senator from Nevada for his courtesies, as always.

Mr. President, I serve on the Health, Education, Labor and Pensions Committee and am pleased that we reported out a bill to improve generic drug competition in America and to address the high cost of prescription drugs. The Hatch-Waxman Act, which passed in 1984, is considered to be a remarkable piece of legislation. It strives to provide patent protection to companies that invests hundreds of millions of dollars to develop new drugs. At the same time, it limits that protection by allowing generic competition. It allows generic drug manufacturers to take a patented drug, produce it, and sell it at a much lower price, a competitive price, driving down the price of the drug for consumers.

Since 1984 the scales, it appears, have tilted too much in favor of the name-brand producer of the drug, the patent holder of the drug, and too much against the generic manufacturers. There have been some problems on both sides of this issue. Loopholes of the Hatch-Waxman Act are being exploited, giving one side an advantage over the other. In fact, one of the things that has occurred is some generic companies have challenged patents and have gotten the right to produce patented drugs, because they have challenged it using the procedures of the act. Then they enter into an agreement with the original patent holder to not produce the generic drug—thereby agreeing to not compete with the name-brand manufacturer. This is a loophole that needs to be eliminated.

I believe S.812 will help recover the delicate balance that was originally intended by the Hatch-Waxman Act. I believe it will help contain the rising costs of prescription drugs. I believe it will also encourage production of drugs the way we intended, but at the same time will eliminate unfair patent extensions. I believe that by reporting this bill out of committee, we are moving in the right direction. I salute Senators EDWARDS, COLLINS, SCHUMER, and MCCAIN who have worked to produce this legislation. I think it is going to be something we can all support.

I know we will be beginning to talk about prescription drugs in general later this week, and I think it is time to do so. This Congress voted—I voted—for a budget last year that set aside $300 billion for a prescription drug benefit. However, we were not able to pass a prescription drug benefit last year, and it remains to be seen whether we will be successful this year.

There are a lot of different views about how prescription drugs should be handled. Over the Fourth of July weekend, I visited two assisted care living facilities in Alabama: Chateau Vestavia near Birmingham and Westminster in Mobile, Alabama. I talked with seniors who have high drug bills and listened to what they had to say. I wanted to have their input as the Senate moved toward considering a prescription drug proposal. They told me that they are most concerned about high drug prices. I spoke with seniors that are struggling to pay for their drugs.

My mother is in her eighties. She has a $300-a-month drug bill. She is in relatively good health, although she has arthritis and high blood pressure. Her sister's drug bill is even higher than that each month. They are both in an assisted living center. They are getting by, but it is not easy. For people who

rely on their Social Security as their sole income, they are not able to get by with those drug prices.

We know we have a problem. The theory is this: If this federal government, through Medicare, will pay for the removal of a kidney, or will pay for the amputation of a leg, is it not irrational that we would not pay to fund drugs that would keep people from having to have a kidney removed or keep people from having to have an amputation because they are diabetic?

We are at a point where drugs are such a central part of health care in America, that we cannot leave them out of Medicare.

The seniors I visited with in Alabama want us here in the Senate to address the high cost of drugs. They believe they are higher than they need to be—and I agree. They would like to see less paperwork in the process, less bureaucracy, and less fraud. They would also like to see that they can go to their local pharmacy and buy the drugs there and talk to a pharmacist about them if they choose. They would like to be able to buy through direct mail and mail order if they choose. Those are things we will have to wrestle with. I intend to be talking with more seniors as time goes by so we can listen to their concerns and desires and see what we can do to pass a responsible bill.

We are not doing anything to help Medicare beneficiaries pay for drugs today. We should not fail to act at all and do nothing simply because we can't do everything we would like to do today.

We need to have some relief now. We have people this day who are having to choose between food and rent and drugs. They often are not able to buy the drugs they need to keep themselves healthy, and that leads to complications and even greater health care costs.

We need to quit putting this off. If we cannot afford the Cadillac, we need a Ford. We need to do something to move forward. Seniors need help now.

People who need drugs, seniors who need drugs, all Medicare beneficiaries who need them and simply cannot afford them need help. We can do that through the budget we passed last year. There is, through President Bush's plan, an idea of using group purchasing power to reduce the cost through a prescription drug discount card. A number of my pharmacist friends are concerned that could hurt them. That was not the intent. They have challenged this card. But a card plan should not harm our pharmacists. We ought to be able to drive down the cost of prescription drugs by up to 20, 30, or 40 percent. That would be a tremendous savings. It would be good if we could do that today—and not wait any longer. It would be a monumental step forward.

We want our seniors to have choice and to not have to give up their current coverage plans. We do not want them to have to enter into some sort of mandatory plan that costs them more and provides less benefits.

Beneficiaries should have information and the choice to choose between whether they want generic drugs or name-brand drugs. That is a choice that many can make. We need to make sure that option is available to them.

We did vote for a budget last year that provides for $300 billion for prescription drugs. We have allowed our spending here to get out of control. Our discretionary spending last year hit about a 7 percent increase. This year, likewise, with defense and supplementals, it could be greater than that. If we get our spending under control and contain excessive spending, we ought to be able to fund a plan that would meet the needs of thousands of seniors who are in a crisis situation today.

Politics should be put on the back burner. It is time to ask ourselves how we can accomplish passing a piece of legislation that we all can support, that the American people would like to see passed, and that we can afford. We can do this, if we watch our cost and do not let it get out of control. If we are smart and work at it and do it in a way that is bipartisan as this generic bill we passed out of the HELP Committee last week, we can make good progress for America. I look forward to the debate and hope we can achieve that before the recess.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under a previous order, the Senate stands in adjournment until 9:30 a.m., Tuesday, July 16, 2002.

Thereupon, the Senate, at 8:12 p.m., adjourned until Tuesday, July 16, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 15, 2002:

NATIONAL COUNCIL ON DISABILITY

GLENN BERNARD ANDERSON, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002, VICE YERKER ANDERSSON, TERM EXPIRED.

GLENN BERNARD ANDERSON, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005. (REAPPOINTMENT)

MILTON APONTE, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2003, VICE AUDREY L. MCCRIMON, TERM EXPIRED.

BARBARA GILLCRIST, OF NEW MEXICO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002, VICE LILLIAM RANGEL POLLO, TERM EXPIRED.

BARBARA GILLCRIST, OF NEW MEXICO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005. (REAPPOINTMENT)

GRAHAM HILL, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002, VICE HUGHEY WALKER, TERM EXPIRED.

GRAHAM HILL, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005. (REAPPOINTMENT)

JOEL KAHN, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004, VICE DAVE NOLAN BROWN, TERM EXPIRED.

PATRICIA POUND, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005. (REAPPOINTMENT)

MARCO A. RODRIGUEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002, VICE EDWARD CORREIA.

MARCO A. RODRIGUEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005. (REAPPOINTMENT)

DAVID WENZEL, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004, VICE BONNIE O'DAY, TERM EXPIRED.

LINDA WETTERS, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2003, VICE GERALD S. SEGAL.

CONFIRMATION

Executive nomination confirmed by the Senate July 15, 2002:

THE JUDICIARY

LAVENSKI R. SMITH, OF ARKANSAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO JEAN-JACQUES CARQUILLAT

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. HINCHEY. Mr. Speaker, I am pleased to congratulate my constituent and dear friend, Jean-Jacques Carquillat, on the occasion of his attainment of United States citizenship. Mr. Carquillat is a valued and well-respected member of our community, and I am proud to welcome him as a full citizen to the 26th Congressional District of New York State.

I became acquainted with Jean-Jacques, as well as his family, through his businesses in the Uptown Historic District in Kingston, NY. In 1994, Jean-Jacques established Le Carnard Enchaine, a Zagat-rated, fine dining restaurant. He also started a dance club and special events catering business in 2000. The success of these businesses led to his more recent opening of Luke's Place, a gourmet restaurant, in the Town of Shandaken, named after his young son.

I have witnessed the hard work, strong character and integrity that Jean-Jacques has brought to the projects he has undertaken. His businesses have had positive impacts on our local area, including creating jobs in the City of Kingston and enhancing the city's efforts to promote tourism in the historic district. Jean-Jacques has been an active member of the Uptown Kingston Business Association and received its Excellence Award for 1999. In addition, he has been a consistent and strong supporter of various local nonprofit community organizations.

Mr. Speaker, it is my pleasure to join Jean-Jacques Carquillat's colleagues, friends and family in extending my congratulations on his naturalization. His personal and professional enthusiasm has made him a valuable asset to our community, and I am confident that he will continue to serve in the most admirable way both his community and our great nation.

HONORING THE NAMING OF THE DOUGLAS MORRISSON THEATER IN RECOGNITION OF DOUGLAS F. MORRISSON'S 40 YEARS AS A BOARD MEMBER OF THE HAY WARD AREA RECREATION AND PARK DISTRICT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. STARK. Mr. Speaker, on July 28, 2002, the Hayward Area Recreation and Park District will rename their theater in honor of Board Member Douglas F. Morrisson. In his 40 years of service, Douglas Morrisson has honorably served the park and recreation field on the local, regional, state, and national levels.

Douglas Morrisson was first elected to the Board of Directors of the Hayward Area Recreation and Park District in November of 1962. Since then, he has been re-elected to nine consecutive four-year terms. This year, his 40th year of service, he is serving as vice-president of the District.

The Hayward Area Recreation and Park District has seen unprecedented growth during Douglas Morrisson's tenure. The District boasts beautiful parks and fine recreation facilities, including community parks, swim centers, linear parks, playgrounds, community centers, athletic fields, and senior centers. Additionally, the park district has gone beyond traditional park features to include special interest facilities for theater, art, nature study, camping and golf.

A graduate of San Jose University and a former high school teacher, Douglas Morrisson is currently an independent business owner. In the past he has served in the leadership of many park and recreation organizations, notably as President of the California Association of Parks and Recreation Commissioners and Board Members and President and Vice-President of the Commissioners and Board Members Branch of the National Park and Recreation Association. He is the recipient of the 1993 California Association of Recreation and Park Districts Outstanding Board member award and the 1993 California Special Districts Association Outstanding Board Member Award.

In the community, Douglas Morrisson has been active as a board member of the Castro Valley Fire District, and a member of the Hayward Rotary Club. He has served as chairperson and vice-chairperson of the Alameda County Local Agency Formation Commission (LAFCO) and as President and board member of the Hayward Sun Gallery. In 1999 he received the city of Hayward's Mayor's Award.

I am honored to join the colleagues of Douglas Morrisson in commending him for his 40 years of service to the city of Hayward. Douglas Morrisson's dedicated work with the Park District has provided every member of the Hayward community spectacular state-or-the-art park facilities to enjoy.

MEMORIALIZING MS. GEORGIA BALL TRAVIS

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. HONDA. Mr. Speaker, I rise today to ask my colleagues to join me in honoring the life and work of Ms. Georgia Travis, whose amazing life came to a peaceful end on March 12, 2002, after 94 wonderful years. Ms. Travis committed her extraordinary life to the betterment of others, through social work, teaching, writing, and countless other endeavors, culminating in the creation of the Georgia Travis Center for homeless women and children. This shelter, along with the indelible imprint she left on so many lives, will stand forever as the legacy left by this amazing woman.

Georgia Travis dedicated her personal and professional life to helping others. Born in 1908 in Kansas City, Missouri, Georgia was brought up in a family with a keen awareness of social injustice and inequity. She was taught to lend a helping hand to those in need, a notion that would dictate the course of her long life. After becoming one of the first students to earn a master's degree from the University of Chicago School of Social Service Administration, she began working in the relatively new field of medical social work, helping stress patients in Chicago and disabled children in Seattle. By the late 1930s. Ms. Travis was traveling the country as a consultant for the new Washington, DC, based Crippled Children Service Department and the U.S. Transient Bureau. In 1953, Georgia was awarded a Fulbright Scholarship which sent her to Sydney, Australia, to teach. Shortly after returning to the States, she settled into what would eventually become her permanent home: the Bay Area of California.

The State of California may never fully realize the full extent of Ms. Travis' contributions, but I would like to take moment to share some of the many highlights. By 1962, just a few years after arriving in the Bay Area, she was name California Social Worker of the year. A year later she became a professor of Social Services at San Diego State University, teaching graduate level courses until her retirement in 1970. But Georgia's idea of ''retirement'' was as unconventional as it was prolific.

Ms. Travis lived in retirement with the same spirit and ideals of her childhood and professional life; she could sense injustice and suffering, create solutions, and see the process through to the end. After the passing of her mother in 1971. Georgia found solace and balance in the Quaker faith, and became a member of the Quaker Society of Friends. Strengthened by her new faith, Georgia focused her efforts on the plight of the homeless community, a pursuit that would lead her to some of the biggest accomplishments of her life. She started out with fundamentals like providing meals at the Family Center in Agnews Hospital and distributing clothing at the Family Shelter in East San Jose. Then, with the help of the American Association of University Women, Georgia organized a committee that develops and provides the homeless, especially women and children, with improved services and outreach. She convinced Stanford University to conduct a major study on homeless children, and helped initiate educational programs for the children as well. Mr. Speaker, the list of her successes, of the tangible changes she made for thousands of people, is far too long to describe here. But I would like to make note of perhaps her greatest accomplishment of all: the establishment of the Georgia Travis Center.

In 1992, the nonprofit San Jose shelter agency InnVision honored the wishes of Ms. Travis by opening a new shelter for homeless

women and children, to be named after the woman who perhaps had done more for their cause than anyone else in the city's history. At the Center, volunteers help women and children get back on their feet by providing meals, medical care, childhood-development courses, and classes on computers and career planning. The Center provides them not only with new hope for the future, but a sense of a security and value that may have been taken away from them when their homes were lost. Ever humble, Ms. Travis was embarrased by the attention of having her name immortalized, but the Georgia Travis Center will forever be a working tribute to Georgia's insatiable desire to empower, enlighten, and improve the lives of those in need of help.

Mr. Speaker, I rise today to mourn the loss of a friend and a role model. I had many opportunities to work with Ms. Travis, and what amazed me most about her was the ability she had to instill in others the same passion and resolve that she herself had in everything she set out to accomplish. The Bay Area should feel fortunate to be chosen as the beneficiary of her great works, and I personally feel fortunate to represent a district so deeply touched by her.

PLEDGE OF ALLEGIANCE

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. STEARNS. Mr. Speaker, I rise today to remind Americans why the Pledge of Allegiance is so important in light of the 9th Circuit Appeals Court decision. I'd like to submit Chief Justice of the Alabama Supreme Court Roy S. Moore's July 1998 statement titled ''Our American Birthright.'' At that time, Justice Moore was a Circuit Court Judge.

OUR AMERICAN BIRTHRIGHT

(By Roy S. Moore)

One nation under God was their cry and declaration,
Upon the law of nature's God they built a mighty nation.
For unlike mankind before them who had walked this earthen sod,
These men would never question the sovereignty of God.
That all men were ''created'' was a truth ''self-evident,''
To secure the rights God gave us was the role of government,
And if any form of government became destructive of this end,
It was their right, their duty, a new one to begin.
So with firm reliance on Divine Providence for protection,
They pledged their sacred honor and sought His wise direction.
They lifted an appeal to God for all the world to see,
And declared their independence forever to be free.
I'm glad they're not here with us to see the mess we're in,
How we've given up our righteousness for a life of indulgent sin.
For when abortion isn't murder and sodomy is deemed a right,
Then evil is now called good and darkness is now called light.
While truth and law were founded on the God of all Creation,
Man now, through law, denies the truth and calls it ''separation.''
No longer does man see a need for God when he's in full control,
For the only truth self-evident is in the latest poll.
But with man as his own master we fail to count the cost,
Our precious freedoms vanish and our liberty is lost.
Children are told they can't pray and they teach them evolution,
When will they learn the fear of God is the only true solution.
Our schools have become the battleground while all across the land,
Christians shrug their shoulders afraid to take a stand.
And from the grave their voices cry the victory has been won
Just glorify the Father as did His only Son.
When your work on earth is done, and you've traveled where we've trod,
You'll leave the land we left to you, One Nation Under God

RECOGNIZING RICHARD P. SESSLER

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. BOEHLERT. Mr. Speaker, I rise today to recognize Richard ''Dick'' Sessler for his 12 years of dedicated service to the Mohawk Valley Resource Center for Refugees. On June 28th, 2002, Mr. Sessler retired from his post as Executive Director for the Refugee Center. During his tenure, he was instrumental in the successful resettlement of close to 10,000 refugees from Bosnia, Russia, Vietnam, Burma, and Sudan to the Utica, NY area. Mr. Sessler is a visionary and a truly remarkable leader. Under his leadership the Mohawk Valley Resource Center for Refugees expanded significantly, initiated innovative services and formed many meaningful partnerships with a large number of community organizations.

Mr. Sessler's work with the center dates back to 1990 when he was first hired as Associate Director and later promoted to Executive Director in 1993. During that time the Center has grown tremendously. The Refugee Center now offers three well staffed and well developed programs that have been made more effective: a health program, an education program, and an excellent job placement program. In addition, Mr. Sessler was involved in the establishment of an on-site clinic, nighttime English classes (ESL), a dental program, a community relations program and citizenship classes.

Upon his retirement, Mr. Sessler plans to continue to offer his services to the refugee community. His plans include consulting and serving as an active member of the Lutheran Immigration Service (LIRS). I am confident that he will continue to offer his knowledge and experience and serve as a tremendous asset to the LIRS.

Mr. Sessler's commitment to the Refugee Center should serve as an inspiration to all. Mr. Sessler was and will remain to be well respected and well liked by all that have the pleasure to work with him. He has touched and reshaped the lives of many war-torn men, women and children across the globe by helping them escape brutal religious and political persecution—I commend him for his efforts. I am confident that the Mohawk Valley Resource Center for Refugees will continue to maintain its excellent reputation, level of professionalism, and success that Mr. Sessler worked so diligently to instill within it.

VFW VOICE OF DEMOCRACY CONTEST

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. HINCHEY. Mr. Speaker, I am pleased to congratulate my constituent Allegra Guarino, New York's recent winner of the Veterans of Foreign Wars' Voice of Democracy Scholarship Contest. This very talented young writer from Marlboro, New York has written an essay entitled ''Reaching Out to America's Future'' that bears reading and reflection by all of us. I am very proud to represent her in Congress, and I'm sure that her family and friends are very proud of her accomplishment. I am certain that she has a very bright future and will go on to do great things for her community and our nation. We need more young people like her.

REACHING OUT TO AMERICA'S FUTURE

(By Allegra Guarino)

When I hear the phrase . . . ''reaching out to America's future'' . . . I think of an outreach trip that I took this summer to Harlan County, Kentucky. Harlan County is one of—if not the poorest counties in America. The people here don't have running water, some of them don't have electricity, and what is even more shocking is that some of them don't have a sewage system. They live in hills of the Appalachian Mountains in conditions that many people wouldn't dream exist in our great country. One of the volunteers on the trip found a beautiful stone on the ground and gave it to a little girl that he met. He told her that it was a dream stone, and that if she held onto it when she was dreaming of the future, it would hold inside of it all of her hopes and her dreams. The six-year-old girl looked up at him with questioning eyes and said, ''But I don't know how to hope and dream.'' How do you teach a child to dream? Most people don't have to be taught. Because they are lucky enough to live in part of our country where the reach of their dreams has no limitations.

Another child I met in Kentucky is named Bailey. She is a four-year-old that loves to play on the swing set, so on the third day of the trip I decided to teach her how to butterfly swing. I sat down on the swing and placed her on my lap so that she was facing me. I kicked off from the rocky soil and we began swinging. I told her to be sure and watch the shadow that we were casting on the ground. I watched her eyes light up as she saw the butterfly shaped shadow on the ground. As we pulled away from each other and then back towards each other the shadow was an image of a butterfly flapping its wings. I told her that she might not be able to fly like the butterfly but she could do lots of great things in her life. She thought about the butterfly and what I had said and then she looked at me with these big blue eyes and said you can be the wings. I know that she didn't mean it as deeply as I took it. She was probably only referring to the shadow that we were making on the ground. But to me it meant something more.

Today our country is at war and once again many brave people have gone off to fight in defense of freedom. They are truly the wings of the butterfly. Just as I picked up Bailey and placed her safely on my lap the troops fighting now, and the troops that have fought for us in the past picked up America, and started to fly. In order to start us swinging I had to push hard off the rocky ground. The American soldiers don't have an easy task ahead of them. We are just now, just kicking off of the rocky ground. But I have no doubt that we will fly. A butterfly has two wings. Each equally important. The soldiers will no doubt put 110% into flying our country to the freedom of the open skies. But we the American people must put equally as much effort into flying the country higher. All of us as a team must reach out to America's future. Without knowing us people have laid down their lives so that we would be able to enjoy the freedoms that are now being threatened. America too has a dream stone. Only it comes in a different form. It is tri-colored in red, white, and blue. Red for the blood shed yesterday, White for the pure freedoms we enjoy today and Blue for the endless clear skies of tomorrow.

Our flag is our dream stone holding inside of it the very hopes and dreams of our Nation. We held tightly to it as it was proudly carried through World War One, World War Two, Desert Storm, Vietnam and Korea. While we were enjoying a time of great prosperity we tucked our stone away in our pocket. On September 11th we pulled it out of our pockets when firefighters proudly raised it high at ground zero, athletes displayed it on their jerseys, and average Americans flew it from their cars and homes. My generation knows how to dream. Will the generation after us be able to say the same? We must reach out and place the knowledge of the past into the hands of the future. When we empower the future generations with knowledge our country is sure to thrive. It is estimated that over one million men and women have died in service to our great country. Let us, America's present, take pride in our history and reach out to the future by passing along our knowledge and our great American dream stone. Because without a doubt America's future is whatever America dreams it to be.

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. RILEY. Mr. Speaker, I was unavoidably detained for Rollcall No. 295, on H.R. 4687, the National Construction Safety Team Act. Had I been present, I would have voted ''yea.''

THE UNINSURED

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. CONYERS. Mr. Speaker, last week, on July 11, 2002, several of my colleagues, Ms. BALDWIN, Ms. LEE, Mr. MCDERMOTT, and Ms. CARSON, declared that it was time for this Congress to place universal health care at the top of the nation's political agenda. This declaration, I believe, was a defining moment for the universal health care movement in America. Not since 1994 have we seen such a visible and strong nationwide movement for universal health care.

Two years ago, in an attempt to create momentum and a unified strategy to achieve universal health care in Congress, I founded, along with Members of the Congressional Black Caucus, the Progressive Caucus, the Hispanic Caucus, and the Asian Pacific American Caucus, the ''Congressional Universal Health Care Task Force,'' which now has 44 Members. For over two years we have sponsored briefings on Capital Hill, attended town meetings on universal health care in cities across the country, and learned from health care experts about different ways to achieve universal health care.

Mr. Speaker, I introduced House Concurrent Resolution 99 with several of my colleagues from the ''Congressional Universal Health Care Task Force,'' in order to build the momentum for passage of universal health care legislation by 2004.

We currently have 86 co-sponsors for this bill. There are over 325 national, state, and local organizations who support it as well. House Concurrent Resolution 99 does not specify how to pay for universal health care, nor does it spell out how a health care for all system would be administered. Instead, the resolution explicitly states what universal health care should be—affordable, comprehensive, and accessible for all Americans.

America is on the road to universal health care. How can we as members of Congress justify the fact that we have one of the best health insurance plans available, yet we allow 40 million Americans to have no health insurance coverage at all? Mr. Speaker, we cannot defend something that is clearly indefensible.

In the world's wealthiest country, my colleagues somehow can sleep at night knowing that right now in America, there are millions of patients, many of the children and families, that are having serious heart problems, lung problems, headaches, dental problems, mental illness, or other maladies, but are delaying treatment, not because they do not care about their health, but because the system does not care about them.

We now know empirically, based on the recent Institute of Medicine's 2002 report on the uninsured, that 18,000 Americans die each year because they were uninsured. If we truly care about the health and well being of working families, and those with serious illnesses who are too sick to work, we would ensure that all Americans would have peace of mind, as they do in Europe and Canada, to accessible, affordable, high quality, and comprehensive health care for all guaranteed by law.

In Michigan, thousands of uninsured HIV/AIDS patients can not afford the necessary cocktail of life sustaining drugs due to budget cut backs of government subsidized HIV/AIDS prescription drug programs. Can we continue to allow the uninsured chronically ill, those who have serious physical or mental health problems to go without needed health care for long periods of time, jeopardizing their lives, and needlessly suffering due to having untreated illnesses? For Congress to ignore these health care injustices and continue to ''wish our health crisis away'' is both immoral and cold hearted.

Plain and simple, if you do not have health insurance, you will receive ''second class medicine,'' as Consumer Reports magazine highlighted in an in depth story published last year. This is particularly true if you are African American or Hispanic. Might I remind you that the first question a nurse or hospital intake administrator asks the patient is not, ''May I help you,'' but rather, ''Do you have health insurance?'' Health care in America for the most part is a business, and therefore, health care providers and physicians that are making money do not have an incentive to provide charity care.

The Kaiser Family Foundation recently reported that the majority of the uninsured do not receive comprehensive charity care in hospital emergency rooms or community clinics. Because there is no such thing as ''universal charity care'' in this country, we need universal health care and we need it now. Most uninsured patients with serious illnesses need long term health care treatment, prescription drugs, or medical equipment. Currently, millions of uninsured chronically ill patients must suffer the indignities of spending days and weeks searching for charity care. They often borrow money from relatives or friends just to purchase prescription drugs or to see a doctor. This is wrong and we all know it.

For the past two years, the ''Congressional Universal Health Care Task Force'' has sponsored several briefings with my colleagues from the Congressional Black Caucus, Progressive Caucus, Hispanic Caucuses, and the Asian Pacific American Caucus on the uninsured crisis in America. We have heard story after story of untold suffering by uninsured or under-insured Americans. We have also heard from numerous physicians who saw patients after their illness were full blown, many of them who died, because they delayed treatment only because they were uninsured. I urge Members of Congress to read ''As Sick As it Gets,'' by Rudolph Mueller, M.D., a ground breaking book about the shocking reality of America's healthcare system. The book documents case after case of Dr. Mueller's patients who tragically became chronically ill, or died, as a result of delaying health care only because they were uninsured.

The Task Force has heard from numerous Americans whose credit was ruined for life, and went into bankruptcy due to thousands of dollars of unpaid medical bills. There are approximately 200,000 bankruptcies in America each year due to unpaid medical bills. Individuals and families should not have to experience the pain and humiliation of declaring bankruptcy just because they got sick. I heard testimony last year from two Washington D.C. residents, a husband and wife with cancer, both high school teachers, who declared bankruptcy due to the high costs of chemotherapy. They were both insured at the time, but had to rely on their credit cards to cover the costs of treatment, due to inadequate private health insurance coverage. Their daughter, who has Hepatitis C, called dozens of doctors but was denied access because she was uninsured. She is having a difficult time returning to work, because she needs long term therapy and treatment in order to be productive again. This is a national disgrace.

Mr. Speaker, I do not believe, unlike many of my colleagues, that universal health care means the federal government provides vouchers so Americans can purchase costly and inferior or private health insurance, that in most cases, will not adequately cover one's health care needs, especially if an individual

or family has a chronic illness. Universal health care is not a system where health decisions are made by HMO bureaucrats instead of physicians. Furthermore, it is not a system where the patient receives some kind of health insurance coverage through an HMO or a private health insurance plan, but does not have the freedom to choose their physician.

It is my hope that we will achieve universal health care one day by extending, strengthening, and expanding Medicare to all Americans. Medicare has a 2–3 percent administrative over-head, versus the 20–30 percent administrative overhead costs of an HMO or private health insurance plan. The CBO in 1991 reported that we would save $ 100 billion dollars a year if we established a public health insurance program for all Americans. Many health care economists contend that a tax payer financed national health insurance program would cost the average family of three a total of $739 dollars a year for all of their health care costs, as opposed to the thousands of dollars needlessly wasted on premiums, co-pays, and high deductibles of a private health insurance plan. If we continue to support the idea that health care must be run like a business, and we continue to worship at the alter of private health insurance, it will be difficult if not impossible to cover the skyrocketing costs of primary care, prescription drugs, mental health services, and long term care through a private health insurance dominated system.

National health insurance would save billions of dollars through reduced emergency room visits, reduced chronic illnesses, and a dramatic reduction in uncompensated care for public hospitals which treat the uninsured after they have developed full blown chronic illnesses. Prevention is the key here. All Americans would have access to affordable primary care, and therefore, illnesses such as hypertension, cancer, heart conditions, pre-natal health conditions, respiratory, or kidney problems would be dramatically reduced due to having access to regularly scheduled check-ups.

Mr. Speaker, every sector of the American public is calling for health care coverage for all. Citizens, business, labor, the faith community, civil rights organizations, community clinics, public hospitals, the media, physicians, state and local officials; all are calling for health care for all. The time has come for Congress to act on the crisis of the uninsured. Let's join the rest of the industrialized West, and ensure that all Americans receive high quality and affordable health care.

I urge my colleagues to co-sponsor House Concurrent Resolution 99. Let's show the American people that we truly care about their health. We can not allow another 18,000 Americans to die next year because they are uninsured.

DEATH OF DHIRUBHAI AMBANI

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. McDERMOTT. Mr. Speaker, as the current Co-Chairman of the Congressional Caucus on India and Indian American, I note with great sadness the recent death of Dhirubhai Ambani, the founder of The Reliance Group, India's largest and most profitable company.

Dhirubhai Ambani began his illustrious business career as a small trader of fabrics in rural Gujurat. Over the next half decade, he transformed his small business into a diverse economic powerhouse which included vibrant businesses in petrochemicals, petroleum, polyesters, telecommunications, securities and cutting edge technologies. Unlike many older Indian businesses, however, Reliance chose a new path on its ascendancy to becoming a Fortune World 500 Company, and Dhirubhai Ambani was the architect of Reliance's success. Dhirubhai Ambani chose not to keep his businesses as a family concern. Instead, he floated equity shares and thereby allowed millions of middle-class Indians to join with him in enjoying Reliance's decades of economic success. Indeed, there are now more than three million investors in India's largest and most widely held company, which is also the largest exporter from India, as well as the largest private sector source of revenue to the Indian government.

Mr. Speaker, Dhirubhai Ambani was a legend in India. He was also a role model for entrepreneurs around the world, as well as having served as a shining example of India's economic potential. I am confident that all of the Members of the India Caucus join with me in expressing our sympathy to the entire Ambani family. In particular, we send our heartfelt condolences to his widow, Kokilaben Ambani, and her two sons, Mukesh and Anil, who have assumed the helm of India's largest economic vessel. Dhirubhai Ambani's legacy is large, but his sons will continue to build on their father's many achievements.

IN SUPPORT OF H.R. 4687, NATIONAL CONSTRUCTION SAFETY TEAM ACT

SPEECH OF

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Mr. CROWLEY. Mr. Speaker, I rise in support of H.R. 4687, the National Construction Safety Team Act. And I especially want to recognize my friend from New York, Anthony Weiner for his work on the bill.

As we all know, September 11th changed New York. It changed our world. Since September 11th, brave workers, volunteers, and scientific experts have traveled to Ground Zero in the name of recovery and understanding.

These workers, volunteers, and experts have all pushed themselves and their skills to the ultimate limit to deal with an unusually grave situation. And I commend them all.

In particular, the National Institute of Standards and Technology, NIST, had to deftly work with a myriad of concerned New Yorkers. There are thousands of affected family members who are both grieving and seeking answers. People like John and Kathy Ashton of Woodside, Sally Regenhard of Co-op City, and Arthur Taub of Co-op City. Some, like Mr. Taub, had concerns about the NIST investigation itself.

NIST has worked with constituents who wanted answers—and with constituents who had information.

Even seasoned NIST employees admitted they were covering new ground as no one could ever imagine such an event as 9/11 happening.

In the immediate aftermath of September 11th, NIST had to try to do its job amidst emergency respondents, police officers, and incomprehensible loss.

In this extraordinarily challenging situation, critical evidence—like beams, steel work, and cables—was being carted off before the NIST team had a chance to even catalogue or identify it.

Given the fact that the scope of this tragedy had never been seen before, it is understandable that the investigation would be less than ideal.

But it is important that we learn from this tragedy.

And there are several lessons to be learned from September 11th. One lesson is the importance of a swift and thorough investigation of a building failure.

NIST's response teams must have access to building debris as soon as it's safe to enter a site.

And they must be able to move and preserve this critical evidence. This bill gives NIST that authority.

Looking toward the future, it is important to do all we can to prevent a building failure of any kind from ever happening. This bill will allow us to obtain information to help prevent building failures.

And it is important for us to swiftly and thoroughly respond to the community when building failures, God forbid, happen. And this bill does that also.

I urge your support of H.R. 4687.

IN RECOGNITION OF JOSE L. LASTRA

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. SHAW. Mr. Speaker, I rise today to pay tribute to Jose L. Lastra, a man who has served with distinction in the Social Security Administration in South Florida for 30 years.

Born in Cardenas, Cuba in 1948, Jose Lastra arrived in the United States on September 28th, 1961, speaking no English and carrying with him nothing but a strong work ethic and determination. Graduating from Miami Edison High School in 1966, Jose continued his education, earning a degree in History with a minor in Political Science from Florida Atlantic University, with post-graduate studies at the University of Miami School of Hispanic American Studies and Florida International University's School of Public Administration.

Mr. Lastra entered public service on July 17, 1972, when he was hired for the position of Service Representative in the Miami Beach Social Security Office. This month marks his 30th anniversary with the Social Security Administration. Over the last three decades, Jose has served with distinction in a number of positions in the South Florida Area, including: service, claims and field representative, Hispanic Program Officer, and manager of the Cuban-Haitian Emergency Processing Office and the Riverside Branch Office. In recognition

of his outstanding work, Jose was awarded the Commissioner's Citation in 1980, 1991, and 1992, and the Commissioner's Team Award in 1997.

In 1990, Mr. Lastra was appointed Area Director of South Florida. In this capacity, he oversees thirty-three Social Security field offices with a total staff of 978 employees. The South Florida Area includes more than 2 million Social Security beneficiaries, many of whom reside in my district. As Chairman of the House Social Security Subcommittee, I am especially grateful for all of Mr. Lastra's hard work on behalf of my senior constituents.

Today, I am pleased to recognize a man who has taken full advantage of what America offers. Coming to this country as a young immigrant from Cuba, he studied hard, worked tirelessly and rose from an entry level position to one of leadership in the Social Security Administration. A true sign of his character, Jose is held in the highest regard by those who work with him and for him. Jose L. Lastra's life and achievements represent the dream of opportunity that America so proudly boasts.

ON THE RETIREMENT OF JOHN DURANT OF CUSTOMS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. CRANE. Mr. Speaker, it is my honor today to acknowledge the retirement of John Durant, Director of Commercial Rulings for the U.S. Customs Service. Mr. Durant retires after 33 years of federal service, with almost 31 years of that time with Customs. John Durant served in Customs field offices in Boston and Houston, before coming to Headquarters office in Washington DC. John is well known to all members of the international trade community and the trade bar as a preeminent expert on Customs matters and has been instrumental in the effort to modernize Customs' procedures for the benefit of trade and our economy.

Thirty years has seen remarkable changes in how trade has taken on an ever more important role in our country's economic success. Just in the last decade, trade has grown 132 percent, and by 2004, Customs will be processing more than 30 million commercial entries a year. This is up from 12.3 million in 1994 more than double the level of 10 years earlier. John has had the unenviable but critical role in overseeing more than 12,000 commercial rulings that Customs issues each year on such arcane topics as tariff classification, country of origin and marking. He was also the liaison with the trade community for Customs during discussions leading up to the passage and implementation of the Customs Modernization Act of 1993.

For the Congress, however, Mr. Durant will always be known as Customs point man, and sometimes lightening rod, on trade legislation. For the past 14 years, Mr. Durant has been invaluable to the Congress in providing timely and useful technical comments on draft legislation. Much of trade legislation is not exciting or entertaining. It requires people who are professional, dedicated, and very attentive to detail. Mr. Durant is the leader of such men and women at Customs and he does so with a sense of humor. He has been the ''man to see'' at Customs for answers on trade matters. His retirement will be sorely felt by Customs, Congress, and the trade community.

I am very grateful for all of his help throughout the years. John is a delightful man to work with. We wish him the best in his retirement and his future endeavors. We hope Mr. Durant will return to the nation's Capital and lend his considerable talents to the private sector.

TRIBUTE TO MR. JOHN WALLACH

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. KNOLLENBERG. Mr. Speaker, today I join the chorus of voices around the world to express my admiration and respect for Mr. John Wallach. On July 10, 2002, John Wallach passed away after a life of passion, hope, and heart. I offer my condolences to the family and friends of this truly great man.

Throughout his life, John Wallach approached all things with heartfelt passion. As an award-winning journalist, peace activist, and friend to so many individuals throughout the world, Mr. Wallach inspired those around him to believe in themselves and achieve their dreams.

I had the opportunity to meet Mr. Wallach through his work as founder of, and force behind, the organization Seeds of Peace. Seeds of Peace promotes understanding and long-term stability by uniting teenagers from areas of regional conflict for a unique mediating program at its neutral site in Otisfield, Maine. It was John Wallach's confidence that hope and progress can succeed that enabled Seeds of Peace to grow from simply an idea into the world leader in conflict resolution for youth. I have personally visited this camp in Maine, and seen first-hand the positive effect it has on the participants. Seeds of Peace has established a network of peace builders, who now serve as an inspirational part of John Wallach's legacy.

Before embarking on a second career as an ambassador of peace and mutual understanding, Mr. Wallach had a distinguished career in journalism and as an author. From 1968 to 1994, he served as diplomatic correspondent, White House correspondent, and foreign editor for the Hearst Newspapers. His articles earned many prizes, including two Overseas Press Club awards, the Edward Weintal Prize and the Edwin Hood Award, the highest honor presented by the National Press Club. In 1979, President Carter presented Mr. Wallach with the Congressional Committee of Correspondents Award for his coverage of the Egyptian-Israeli Camp David summit. As an author, he co-authored with his wife Janet Wallach, three books, Arafat: In The Eyes of the Beholder, Still Small Voices, and The New Palestinians. Mr. Wallach has also written The Enemy has a Face.

John Wallach was a man with an enormous heart. Throughout his life he took chances to make progress, and motivated others to follow their hearts. The world is a better place because of John Wallach, and I join many people around the world to commend him and thank him for what he has done.

STATEMENT ON INTERNATIONAL AIDS CONFERENCE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. CONYERS. Mr. Speaker, last week in Barcelona, Spain, 15,000 people came together for the 14th International AIDS Conference for ''Knowledge and Commitment for Action.''

We know that in 2001, there were 5 million new AIDS infections across the globe. Today there are 40 million people living with AIDS worldwide, and there are 14 million AIDS orphans. Currently, in Africa more than 28 million people are living with HIV/AIDS, however, only 30,000 are in treatment.

In comparison, in the United States, nearly 100 percent of the people who need treatment receive it. 99 percent of the African people living with AIDS do not have access to Antiretroviral drugs because they are simply too poor to purchase them.

In Barcelona, thousands came together to call for treatment now, and presented the ''Barcelona Declaration,'' which was also read during the opening session of the Conference. Nelson Mendela and former President Clinton have pledged their assistance to help raise awareness and funding for the UN Global AIDS Trust Fund.

This declaration called for securing donations of $10 billion dollars per year for global AIDS; Antiretroviral (ARV) treatment for at least two million people with HIV/AIDS in the developing world by 2004; lower, affordable ARV drug prices and universal access to generics in the developing world; and a new global partnership between government and NGOs.

I am urging that Congress and the President in a bi-partisan spirit, bolster UN efforts to combat the AIDS pandemic, provide 2 billion dollars to the United Nations Global Aids Fund, to help pay for the costs of HIV/AIDS treatment and prevention programs. This Administration has allocated $200 million dollars to fight global AIDS. I wholeheartedly agree with the activists in Barcelona that $200 million is not enough to combat ''the Plague'' of the 21st century.

The United States must put at least $2 billion into the Global Trust Fund. Dr. Peter Piot, the Director of UNAIDS said that a $ 10 billion effort will only begin to make a dent in the crisis. It is a falsehood to say that spending money on AIDS in Africa would simply be a waste of money. Critics of the fund incorrectly say that corrupt dictators will take the money and use it to enrich themselves. In Uganda, Thailand and Senegal, for example, strong national leadership partnered with a community-wide response are reducing new HIV infections and AIDS diagnoses and focusing on treatment measures for their people. There are hundreds of AIDS organizations and government officials around the world that are monitoring the progress of the Fund. Please . . . let's give it a chance to work.

I am urging today that my colleagues in Congress, the Bush Administration, the private sector, and the celebrity community begin lobbying the more affluent nations of the European Community and Asia to provide the remaining 8 billion necessary to combat the

AIDS pandemic. France, Germany, Japan, Taiwan, and the oil rich Countries of the Middle East are not providing enough funding to the UN Global AIDS Trust.

I have often heard the argument that we can not afford to treat and prevent HIV/AIDS patients around the world who have AIDS, or will contract it in the future. Nobody on the planet can persuade me that America, and the industrialized countries of the East and West, nations with trillion dollar economies, do not have the resources to combat the AIDS pandemic. But the truth of the matter, and I have seen this for decades, is that the international community will follow our lead if we provide the moral and financial leadership on HIV/AIDS. Again, this has not been the case.

I am also urging my colleagues to call a meeting with the pharmaceutical companies, and begin the much needed discussion on how to bring the price of HIV/AIDS prescription drugs down so that the poorer nations, in particularly those in Africa, can afford to buy them or generic drugs. In times of international health disasters, we must put the lives of people first; and profits second. Sadly, this has not been the case.

In the United States, 950,000 people have been diagnosed with AIDS. African Americans make up only 13 percent of the total U.S. population but 54 percent of new infections. 82 percent of women who are newly infected with HIV are African-American and Latino.

In Michigan, AIDS patients who are dependent on federal programs to help cover the costs of HIV/AIDS drugs are now saying that due to budget cuts, they are having difficulty affording HIV/AIDS drugs. We can not allow this to happen.

It is imperative that we as a nation provide the requisite funds necessary to provide adequate treatment and prevention for HIV/AIDS both at home and abroad.

COMMEMORATING THE 40TH WEDDING ANNIVERSARY OF JOE AND BARBARA SALTZMAN

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. HONDA. Mr. Speaker, I rise today to congratulate Joe and Barbara Saltzman who were married on July 1, 1962, and are now celebrating their 40th wedding anniversary. They are the children of Ruth and Murray Saltzman and Sid and Lillian Epstein, the parents of David and Michael Saltzman, the parents-in-law of Jennifer Saltzman, and the grandparents of Samantha and Sarah Saltzman.

Joe and Barbara Saltzman have been active as professional journalists in the community for four decades, with Joe Saltzman having won more than 50 awards as a broadcast journalist including the Columbia University-duPont broadcast journalism award, four Emmys, four Golden Mikes, two Edward R. Murrow Awards, a Silver Gavel, and one of the first NAACP Image Awards, and Barbara Saltzman having been a member of the Los Angeles Times staff for 22 years and editor of the daily Calendar section.

When their son David, a Chadwick School graduate, tragically died of Hodgkin's disease after graduating from Yale, Joe and Barbara could have turned their backs on the world. Instead, they mortgaged their house to keep a promise they had made to David. They promised that if he finished his children's book, The Jester Has Lost His Jingle, they would make sure it would be published in the way he envisioned it and would donate it to children who were suffering from illnesses.

Joe and Barbara made that promise a reality producing more than 40,000 Jester books and 35,000 Jester & Pharley Dolls that have been donated to ill and special-needs children. The book has also become a national best-seller and there are more than 300,000 copies in circulation. To further their efforts, Joe and Barbara Saltzman have created The Jester & Pharley Phund, a non-profit charity so that they can continue the mission of giving every child a sense of hope, a feeling of empowerment, a love of learning, the joy of laughter, and the desire to live up to The Jester & Pharley's motto: ''It's up to us to make a difference, it's up to us to care. . . .''

Barbara has become ''The Jester's Mom'' bringing the Jester & Pharley's message of hope and laughter to thousands of children in hospitals and schools throughout the country. Joe has served the community as a professor of journalism at the University of Southern California Annenberg School for Communication for more than 35 years and continues to serve as an educator, academic, journalist and administrator.

Mr. Speaker, Joe and Barbara Saltzman have dedicated their lives to helping children who need to hear the Jester's message and have made a significant difference in the lives of so many people who need to find hope and laughter. I commend their commitment in bringing a little more happiness to all our lives.

TRIBUTE TO CARDINAL WILFRID NAPIER, OFM, OF DURBAN, SOUTH AFRICA AND THE ARCHDIOCESE OF DETROIT

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. BONIOR. Mr. Speaker, I rise today to recognize the Archdiocese of Detroit, which has joined with the U.S. Conference of Catholic Bishops and Catholic Relief Services to stand in solidarity with Africa through the Africa Rising: Hope and Healing Campaign. Encouraging members of the Metro Detroit Catholic community to engage in advocacy, dialogue, and prayer, they have joined this campaign to truly put their faith to work. On Sunday, June 30, 2002, the Archdiocese of Detroit had the distinguished honor of hosting Cardinal Wilfrid Napier, OFM, of Durban, South Africa, as part of their Africa Rising: Hope and Healing Campaign.

Born in Matatiele, South Africa, in 1941, Cardinal Napier studied in Ireland and France and completed a Masters Degree in Philosophy and Theology. Ordained a priest in 1970 and then appointed Administrator Apostolic of the Diocese of Kokstad and made Bishop of Kokstad in 1981, Cardinal Napier's vibrance and leadership was apparent from the start. Serving two terms as President of the Southern African Catholic Bishops' Conference from 1987–1994, Cardinal Napier went on to be appointed Archbishop of Durban in 1992. In 1998 Pope John Paul II appointed him as Consultor to the Congregation for the Evangelization of the Peoples, and in February of 2001, he was named Cardinal. An outspoken advocate for HIV–AIDS treatment, poverty eradication, debt relief, and development, Cardinal Napier's outstanding work to create innovative new programs and initiatives for these social justice issues is truly unparalleled. He has taken up the challenge to fight for the people of sub-Saharan Africa and continues to work hard for the advancement of his region and beyond.

I applaud Cardinal Napier for the work he has accomplished and continues to do, and I welcome him to the United States and to Detroit, Michigan. I also applaud the Archdiocese of Detroit for its leadership, commitment, and service, and for encouraging our community to stand in solidarity with our brothers and sisters in Africa. I urge my colleagues to join me in saluting Cardinal Napier, and pay tribute to him as he embarks on this historic visit.

THE FREE HOUSING MARKET ENHANCEMENT ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. PAUL. Mr. Speaker, I rise to introduce the Free Housing Market Enhancement Act. This legislation restores a free market in housing by repealing special privileges for the housing-related government sponsored enterprises (GSE). These entities are the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the National Home Loan Bank Board. According to the Congressional Budget Office, the housing-related GSEs received 13.6 billion worth of indirect federal subsidies in Fiscal Year 2000 alone.

One of the major government privileges granted the GSEs is a line of credit to the United States Treasury. According to some estimates, the line of credit may be worth over $2 billion dollars. This explicit promise by the Treasury to bail out the GSEs in times of economic difficulty helps the GSEs attract investors who are willing to settle for lower yields than they would demand in the absence of the subsidy. Thus, the line of credit distorts the allocation of capital. More importantly, the line of credit is a promise on behalf of the government to engage in a massive unconstitutional and immoral income transfer from working Americans to holders of GSE debt.

The Free Housing Market Enhancement Act also repeals the explicit grant of legal authority given to the Federal Reserve to purchase the debt of the GSE. GSEs are the only institutions besides the United States Treasury granted explicit statutory authority to monetarize their debt through the Federal Reserve. This provision gives the GSEs a source of liquidity unavailable to their competitors.

Ironically, by transferring the risk of a widespread mortgage default, the government increases the likelihood of a painful crash in the housing market. This is because the special privileges of Fannie and Freddie have distorted the housing market by allowing Fannie,

Freddie and the home loan bank board to attract capital they could not attract under pure market conditions. As a result, capitol is diverted from its most productive use into housing. This reduces the efficacy of the entire market and thus reduces the standard of living of all Americans.

However, despite the long-term damage to the economy inflicted by the government's interference in the housing market, the government's policies of diverting capital to other uses creates a short-term boom in housing. Like all artificially-created bubbles, the boom in housing prices cannot last forever. When housing prices fall, homeowners will experience difficulty as their equity is wiped out. Furthermore, the holders of the mortgage debt will also have a loss. These losses will be greater than they would have otherwise been had government policy not actively encouraged over-investment in housing.

Perhaps the Federal Reserve can stave off the day of reckoning by purchasing the GSE's debt and pumping liquidity into the housing market, but this cannot hold off the inevitable drop in the housing market forever. In fact, postponing the necessary, but painful market corrections will only deepen the inevitable fall. The more people invested in the market, the greater the effects across the economy when the bubble bursts.

No less an authority than Federal Reserve Chairman Alan Greenspan has expressed concern that the government subsidies provided to the GSEs make investors underestimate the risk of investing in Fannie Mae and Freddie Mac.

Mr. Speaker, it is time for Congress to act to remove taxpayer support from the housing GSEs before the bubble bursts and taxpayers are once again forced to bail out investors who where misled by foolish government interference in the market. I therefore hope my colleagues will stand up for American taxpayers and investors by cosponsoring the Free Housing Market Enhancement Act.

INTRODUCTION OF THE DEFICIT REDUCTION SAFEGUARD RESOLUTION

HON. JOHN SULLIVAN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. SULLIVAN. Mr. Speaker, I rise today to introduce the Deficit Reduction Safeguard Resolution. The House Deficit Reduction Safeguard Resolution will allow Members of Congress to reduce the federal deficit by crediting money to the Deficit Reduction Safeguard Balance.

Under current budget and House Rules, when a Member offers an amendment to reduce spending the money saved is left on the table and available for someone else to spend on another program. Members are not allowed to offer amendments and direct the savings to deficit reduction. As a result, there is little incentive to reduce wasteful spending in order to reduce the deficit.

The Deficit Reduction Safeguard Balance would correct this problem by amending House Rules to permit a Member to dedicate the money saved from any amendment to be dedicated to reducing the deficit. The Deficit Reduction Safeguard Balance only amends House Rules. It does not require approval by the Senate. This Resolution applies to both mandatory and discretionary spending. We have maxed out Uncle Sam's credit card and until we pay down the debt it is shortsighted for us to continue spending without restraint.

This Resolution is about honesty with the American public. A dollar saved should actually be a dollar saved, not a dollar added to another program. I urge my colleagues to cosponsor this Resolution.

PERSONAL EXPLANATION

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. TIAHRT. Mr. Speaker, on Friday, July 12, I was unavoidably detained and missed roll call vote numbered 295.

Rollcall vote 295 was on passage of H.R. 4687, legislation which would provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

Had I been present, I would have voted ''yea'' on this bill.

TRIBUTE TO DIOCESE BISHOP CHARLES M. LASTER 20TH PASTORAL ANNIVERSARY PENTECOSTAL TEMPLE CHURCH

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. BONIOR. Mr. Speaker, as the congregation of the Pentecostal Temple Church gathered together on Sunday July 14, 2002, they celebrated the 20th Pastoral Anniversary of Diocese Bishop Charles M. Laster. A lifelong leader and devoted pastor, Bishop Laster has truly demonstrated his commitment to advancing the mission of Pentecostal Temple Church across southeastern Michigan. As the members and friends of Bishop Laster and Elect Lady Jacqueline Laster gathered to celebrate this special anniversary, they paid tribute to their outstanding years of activism, leadership, and faith.

Bishop Laster has been preaching the Gospel to the congregation of Pentecostal Temple Church, located in Detroit Michigan, since 1982. As his glorious message and ministry has been received, he has shown a special dedication to making a positive difference in the lives of others. An active force in his community, he has worked tirelessly with the Pentecostal Temple Church throughout the years in organizing several programs and ministries as well as working with many organizations around the State of Michigan. With community outreach programs, social and religious events, charity work for those in need, and statewide and national conferences, his involvement with church and beyond has been an inspiration to all. In fact, Bishop Laster's leadership has truly become a legacy, as he has led his congregation and community to greatness.

Bishop Laster's distinguished service and outstanding dedication to improving the lives of people through faith will continue to serve as an example to communities across this Nation. I applaud Bishop Laster for his leadership, commitment, and service, and I urge my colleagues to join me in saluting him for his exemplary years of faith and service on this very special 20th Pastoral Anniversary.

H.R. 5017

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Ms. MCCOLLUM. Mr. Speaker, I rise in strong support of H.R. 5017, a bill that creates an opportunity for the United States to implement agreements with foreign countries to assist us as we battle severe wildfires.

During the devastating wildfires two years ago, both Australia and New Zealand provided the United States much needed help. Following the 2000 fire season, long-term agreements for firefighting assistance were negotiated with these countries. Unfortunately, these agreements have not been implemented because of concerns that foreign firefighters could be held liable for actions taken while providing assistance in the United States. H.R. 5017 removes this barrier and extends liability protection to foreign firefighters providing service to our nation by treating them the same as U.S. employees. At the same time, it requires those countries with which we enter reciprocal firefighting agreements to extend the same protection to U.S. firefighters who lend support overseas, or across our borders.

The valuable assistance firefighters from other countries provide to the United States is not new. For years, the collaborative relationship we have developed with Canada has protected property, resources and lives. Forest fires do not recognize international boundaries. It is vital we continue to work with other countries to ensure that wild fires are prevented and contained.

Just last week lightening started a 450-acre wildfire in the northeast corner of Minnesota, north of the small town of Hovland. Since the risk of wildfire is low in Minnesota, much of the state's firefighting resources had been sent west to help with the forest fires there leaving us shorthanded. Because of our close working relationship with Ontario's natural resource agency, Canadian firefighters were able to bring the Hovland fire quickly under control.

Unfortunately, not every country has the unique and special relationship that the United States has with Canada in fighting wildfires. H.R. 5017 will allow the U.S. Government to develop similar firefighting relationships with other countries around the world and enhance the relationship we have with one of our neighbors. We must help each other. I am pleased the House addressed this issue today and am proud to lend my support.

REGARDING H.R. 5068, ALLOWING UNINSURED WOMEN TO OBTAIN TREATMENT FOR OVARIAN AND UTERINE CANCER

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mrs. MINK of Hawaii. Mr. Speaker, Congress passed the Breast and Cervical Cancer Treatment Act (P.L. 106–354) to help low-income, uninsured women with breast and cervical cancer.

Before passing this act, low-income women could receive free mammograms and pap smears through the CDC's National Breast and Cervical Cancer Early Detection Program. However, women who were diagnosed with cancer could not obtain financial assistance for treatment. The government found diseases that could kill these women, but it did not help them obtain the medical treatment they needed.

P.L. 106–354 corrected this problem by providing federal funds to treat any breast or cervical cancer detected by the CDC's early detection program.

Congress passed P.L. 106–354 so poor women suffering from breast and cervical cancer could focus on dealing with their illness rather than paying for expensive medical bills. The law allows these women to obtain medical coverage for cancer treatments and medicine.

My bill, H.R. 5086, amends the Breast and Cervical Cancer Treatment Act to include ovarian and uterine cancer. It will provide medical treatment for women who are screened by the CDC's early detection program and who are found to have ovarian and uterine cancer.

My bill takes the next logical step by helping low-income women with ovarian and uterine cancer, two of the most devastating cancers faced by women. Ovarian cancer is the 5th leading cause of cancer death in women. Every year almost 40,000 new cases of uterine cancer are diagnosed in the U.S., and approximately 6,600 women will die from uterine cancer.

I urge my colleagues to help women who live in poverty and cannot obtain the cancer treatments they desperately need.

TO HONOR MR. VINCENT ROIG FOR HIS MERITORIOUS ACHIEVEMENTS

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. PASTOR. Mr. Speaker, it is with great pleasure that I rise before you today and take this opportunity to recognize the meritorious achievements of an outstanding Arizonan and American, Mr. Vincent Roig.

Mr. Roig has distinguished himself as a leader in the essential work of providing educational opportunities for qualified citizens. From his early years as an educator and financial aid administrator at a number of universities, he dedicated himself to helping young people gain the knowledge and skills that they would need throughout their life.

In 1982, he was one of the founders of the Arizona Educational Loan Marketing Corporation, the state's secondary market for Federal student loans, which is now an affiliate of the Southwest Student Services Corporation.

Although the Congress of the United States had the foresight to create the Federal Family Education Loan Program, it takes the leadership and dedication of a person such as Mr. Roig, Chairman and Chief Executive Officer of Southwest Student Services Corporation, to effectively implement the Congress' intended goal. The Southwest Companies initially supported only students at Arizona colleges and universities. However, to date, they have provided more than $3 billion to more than one million parents and students nationally in support of providing financial access to post-secondary education.

Under the initiative and leadership of Mr. Roig, not only have the Southwest Companies facilitated the availability of student financial support, they have reduced costs to the borrowers and provided the critically important informational services that ensure that low-income families understand that educational opportunity is available to them. Mr. Roig has worked tirelessly with the U.S. Department of Education, Congressional Subcommittees and the many organizations supporting student financial assistance to bring about useful change and modernization to improve service to educational institutions and students alike. In recognition of his efforts, in 2001 he was awarded the Jean S. Frohlicher Outstanding Service Award by the National Council of Higher Education Programs. This is a prestigious award for which he was chosen by his peers for his exceptional service.

Today, on the occasion of the celebration of Southwest Companies' 20th Anniversary, I ask my colleagues to join me in extending our heartiest congratulations to Southwest Student Services Corporation and to Mr. Vincent Roig for his 20 years of leadership and dedication.

TRIBUTE TO RAY TOWNSHIP

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. BONIOR. Mr. Speaker, today I rise to recognize Ray Township, whose outstanding dedication and commitment to the service of its community has led to a great accomplishment. On Sunday, June 30, 2002, Ray Township will be celebrating its 175th Anniversary.

Ray Township today is a flourishing center of civic and social activities and resources for families of the community. With a great emphasis on community service, Ray Township has opened its doors throughout the years to welcome community members to civic gatherings, conferences, club meetings, and events for the entire family. Ray Township's Historical Committee will be honoring the many years of service by presenting the State of Michigan's Registered Historical Site Plague.

Community will always serve as the cornerstone of Ray Township. While maintaining this community spirit, Ray Township is expanding, by bringing in new levels of technology and resources. The community of Ray Township has dedicated its time and talents to bring its community into the 21st Century, and they have been successful. While continuing to progress, Ray Township's roots will forever be memorialized by the Historical Plaque that will be unveiled at the anniversary celebration. The plaque will represent the First Religious Society of Ray built in 1869, currently the township's Town Hall, and the Ray Township District School House of 1863, currently the township's library. Because of this community unwavering support throughout its remarkable history, Ray Township has become a place that will continue to cultivate its historic roots as well as reach out to younger generations.

Ray Township is a true testament to the hard work and dedication of community members and their families. I applaud the people of Ray Township for their leadership, commitment, and service, and I urge my colleagues to join me in congratulating them on this landmark occasion.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 16, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 17

9:30 a.m.
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.
SR–253

10 a.m.
Indian Affairs
To hold oversight hearings to examine the protection of Native American sacred places.
SR–485

Judiciary
Constitution Subcommittee
To hold hearings on S.J.Res.35, proposing an amendment to the Constitution of the United States to protect the rights of crime victims.
SD–226

Health, Education, Labor, and Pensions
Business meeting to consider S.2394, to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients; S.2499, to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food; S.1998, to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; proposed legislation authorizing funding for the Child Care and Development Block Grant; and the nomination of Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service, and to be Surgeon General of the Public Health Service.
SD–430

Finance
To hold hearings to examine schemes, scams, and cons regarding fuel tax fraud.
SD–215

Joint Economic Committee
To hold hearings to examine economic outlook issues. 2226, Rayburn Building

10:30 a.m.
Foreign Relations
To resume hearings on the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002 (Treaty Doc.107-08).
SD–419

2 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine Homeland Security.
SH–216

Governmental Affairs
To hold hearings to examine the nomination of Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget.
SD–342

2:30 p.m.
Banking, Housing, and Urban Affairs
Housing and Transportation Subcommittee
To hold oversight hearings to examine public mass transit systems.
SD–538

JULY 18

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the role of Enron Corporation energy services in the western state electricity crisis.
SR–253

Aging
To hold hearings to examine issues with respect to identify theft.
SD–628

10 a.m.
Indian Affairs
To hold hearings to examine proposed legislation to approve the settlement of water rights claims of the Zuni Indian Tribe in Apache County, Arizona.
SR–485

Judiciary
Business meeting to resume markup of H.R.3375, to provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; and S.486, to reduce the risk that innocent persons may be executed; and to begin mark up of S.862, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program; S.2395, to prevent and punish counterfeiting and copyright piracy; S.2513, 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; and S.Res.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.
SD–226

Banking, Housing, and Urban Affairs
To hold hearings on the nominations of Paul S. Atkins, of Virginia, and Harvey Jerome Goldschmid, of New York, each to be a Member of the Securities and Exchange Commission.
SD–538

Intelligence
To hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001.
S–407, Capitol

Environment and Public Works
To hold hearings on the nominations of John S. Bresland, of New Jersey, to be a Member, and Carolyn W. Merritt, of Illinois, to be a Member and Chairperson, both of the Chemical Safety and Hazard Investigation Board.
SD–406

2 p.m.
Indian Affairs
To hold hearings on proposed legislation to ratify an agreement to regulate air quality on the Southern Ute Indian Reservation.
SR–485

Judiciary
To hold hearings to examine pending nominations.
SD–226

Agriculture, Nutrition, and Forestry
Production and Price Competitiveness Subcommittee
To hold hearings on S.532, to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State.
SR–332

Appropriations
Business meeting to markup H.R.5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003; proposed legislation making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003; proposed legislation making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003; and proposed legislation making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2003.
S–128, Capitol

2:15 p.m.
Foreign Relations
Business meeting to consider pending calendar business.
SD–419

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Frederick W. Gregory, of Maryland, to be Deputy Administrator of the National Aeronautics and Space Administration; and Kathie L. Olsen, of Oregon, and Richard M. Russell, of Virginia, each to be an Associate Director of the Office of Science and Technology Policy.
SR–253

Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S.1865, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System; S.1943, to expand the boundary of the George Washington Birthplace National Monument; S.2571, to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area; S.2595, to authorize the expenditure of funds on private lands and facilities at Mesa Verde National Park, in the State of Colorado; and H.R.1925, to direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area

in Waco, Texas, as a unit of the National Park System.

SD–366

JULY 19

10 a.m.

Intelligence

To continue joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001.

S–407, Capitol

JULY 23

9:30 a.m.

Governmental Affairs

Investigations Subcommittee

To hold hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on the contribution to Enron's use of complex transactions to make the company look better financially than it actually was.

SD–342

JULY 24

9:30 a.m.

Veterans' Affairs

To hold hearings to examine mental health care issues.

SR–418

10 a.m.

Indian Affairs

To hold hearings on S.1344, to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers.

SR–485

Joint Economic Committee

To hold hearings to examine the measuring of economic change. 311, Cannon Building

JULY 25

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S.2672, to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands.

SD–366

JULY 30

9:30 a.m.

Governmental Affairs

Investigations Subcommittee

To resume hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on the contribution to Enron's use of complex transactions to make the company look better financially than it actually was.

SD–342

10 a.m.

Indian Affairs

To hold hearings on proposed legislation concerning the Department of the Interior/Tribal Trust Reform Taks Force; and to be followed by S.2212, to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act.

SR–485

JULY 31

9:30 a.m.

Finance

To hold hearings to examine the Report of the President's Commission to Strengthen Social Security.

SD–215

10 a.m.

Indian Affairs

To hold oversight hearings to examine the application of criteria by the Department of the Interior/Branch of Acknowledgment.

SR–485

Governmental Affairs

Oversight of Government Management, Restructuring and the District of Columbia

Subcommittee

To hold hearings to examine consumer safety and weight loss supplements, focusing on the extent of the use of supplements for weight loss purposes, the validity of claims currently being made for and against weight loss supplements, and the structure of the current federal system of oversight and regulation for dietary supplements.

SD–342

AUGUST 1

10 a.m.

Indian Affairs

To hold oversight hearings to examine the Secretary of the Interior's Report on the Hoopa Yurok Settlement Act.

SR–485

2 p.m.

Indian Affairs

To hold oversight hearings to examine problems facing Native youth.

SR–485

POSTPONEMENTS

JULY 18

9:30 a.m.

Energy and Natural Resources

To hold hearings to examine the effectiveness and sustainability of U.S. technology transfer programs for energy efficiency, nuclear, fossil and renewable energy, and to identify necessary changes to those programs to support U.S. competitiveness in the global marketplace.

SD–366

10:30 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine Food and Drug Administration regulation of tobacco products.

SD–430

Daily Digest

HIGHLIGHTS

Senate passed H.R. 3763, Accounting Reform.

Senate

Chamber Action

Routine Proceedings, pages S6729–S6812

Measures Introduced: Three bills were introduced, as follows: S. 2 and S. 2728–2729. **Page S6808**

Measures Reported:

Report to accompany S. 2487, to provide for global pathogen surveillance and response. (S. Rept. No. 107–210) **Page S6808**

Measures Passed:

Public Company Accounting Reform and Investor Protection Act: By a unanimous vote of 97 yeas (Vote No. 176), Senate passed S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, after taking action on the following amendments proposed thereto: **Pages S6734–79**

Adopted:

Sarbanes (for Shelby) Modified Amendment No. 4261, to require the SEC to conduct a study and submit a report to the Congress on aider and abettor violations of the Federal securities laws. **Page S6777**

By a unanimous vote of 97 yeas (Vote No. 174), Reid (for Carnahan) Modified Amendment No. 4286 (to Amendment No. 4187), to require timely and public disclosure of transactions involving management and principal stockholders.

Pages S6735–77, S6777–78

By a unanimous vote of 97 yeas (Vote No. 175), Edwards Modified Amendment No. 4187, to address rules of professional responsibility for attorneys.

Pages S6735, S6778

By unanimous consent, passage of S. 2673 was subsequently vitiated, and the bill was then returned to the Senate calendar.

Corporate and Auditing Accountability, Responsibility, and Transparency Act: By unanimous consent, Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of H.R. 3763, to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and the bill was then passed, after striking all after the enacting clause and inserting in lieu thereof the text of S. 2673, Senate companion measure, as passed (listed above).

Pages S6779–93

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint conferees on the part of the Senate. **Page S6793**

Subsequently, by further unanimous consent, passage of S. 2673 (listed above) was vitiated, and the bill was then returned to the Senate calendar.

Greater Access to Affordable Pharmaceuticals Act: Senate began consideration of the motion to proceed to consideration of S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Pages S6797–S6801

A motion was entered to close further debate on the motion to proceed to consideration of the bill and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Wednesday, July 17, 2002. **Page S6798**

A unanimous-consent agreement was reached providing for further consideration of the motion to proceed to consideration of the bill at 10:30 a.m., on Tuesday, July 16, 2002. **Page S6811**

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaties:

Treaty with Sweden on Mutual Legal Assistance in Criminal Matters (Treaty Doc. No. 107–12); and

Treaty with Belize on Mutual Legal Assistance in Criminal Matters (Treaty Doc. No. 107–13).

The treaties were transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. **Pages S6810–11**

Nominations Confirmed: Senate confirmed the following nomination:

Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit.

Pages S6794–97, S6812

Prior to this action, by 94 yeas to 3 nays (Vote No. 177), 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 nomination of Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit. **Pages S6793–94**

Nominations Received: Senate received the following nominations:

Glenn Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Glenn Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability for a term expiring September 17, 2005. (Reappointment)

Milton Aponte, of Florida, to be a Member of the National Council on Disability for a term expiring September 17, 2003.

Barbara Gillcrist, of New Mexico, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Barbara Gillcrist, of New Mexico, to be a Member of the National Council on Disability for a term expiring September 17, 2005. (Reappointment)

Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2005. (Reappointment)

Joel Kahn, of Ohio, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

Patricia Pound, of Texas, to be a Member of the National Council on Disability for a term expiring September 17, 2005. (Reappointment)

Marco A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Marco A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2005. (Reappointment)

David Wenzel, of Pennsylvania, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

Linda Wetters, of Ohio, to be a Member of the National Council on Disability for a term expiring September 17, 2003. **Page S6812**

Messages From the House: **Pages S6806–07**

Measures Placed on Calendar: **Page S6807**

Measures Read First Time: **Page S6807**

Executive Communications: **Pages S6807–08**

Additional Cosponsors: **Pages S6808–10**

Additional Statements: **Page S6806**

Notices of Hearings/Meetings: **Page S6810**

Privilege of the Floor: **Page S6810**

Record Votes: Four record votes were taken today. (Total—177) **Pages S6778, S6779, S6794**

Adjournment: Senate met at 12 noon, and adjourned at 8:12 p.m., until 9:30 a.m., on Tuesday, July 16, 2002.

Committee Meetings

No committee meetings were held.

House of Representatives

Chamber Action

Measures Introduced: 11 public bills, H.R. 5115–5119, 5122–5127; and 4 resolutions, H. Con. Res. 441 and H. Res. 484–486, were introduced.

Pages H4604–05

Reports Filed: Reports were filed today as follows:

H.R. 4946, to amend the Internal Revenue Code to provide health care incentives related to long-term care, amended (H. Rept. 107–572);

H.R. 3048, to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska, amended (H. Rept. 107–573);

H.R. 3401, to provide for the conveyance of Forest Service facilities and lands comprising the Five

Mile Regional Learning Center in the State of California to the Clovis Unified School District, to authorize a new special use permit regarding the continued use of unconveyed lands comprising the Center, amended (H. Rept. 107–574);

H.R. 5120, making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003 (H. Rept. 107–575);

H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003 (H. Rept. 107–576); and

H. Res. 483, providing for consideration of H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003 (H. Rept. 107–577).

Page H4604

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Culberson to act as Speaker pro tempore for today.

Page H4577

Recess: The House recessed at 12:48 p.m. and reconvened at 2 p.m. **Page H4579**

Presidential Message—District of Columbia FY 2003 Budget Request Act: Read a message from the President wherein he transmitted the District of Columbia's Fiscal Year 2003 Budget Request Act with estimates of revenues and expenditures totaling $5.7 billion—referred to the Committee on Appropriations and ordered printed (H. Doc. 107–242).

Page H4580

Suspensions: The House agreed to suspend the rules and pass the following measures:

Cyber Security Enhancement Act of 2002: H.R. 3482, amended, to provide greater cybersecurity (agreed to by a yea-and-nay vote of 385 yeas to 3 nays, Roll No. 296);

Pages H4580–84 (continued next issue)

American Legion Amendments Act: H.R. 3988, to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion;

Pages H4585–86

AMVETS Charter Amendment Act: H.R. 3214, to amend the charter of the AMVETS organization;

Pages H4586–87

Veterans of Foreign Wars Charter Amendment Act: H.R. 3838, to amend the charter of the Veterans of Foreign Wars of the United States organization to make members of the armed forces who receive special pay for duty subject to hostile fire or imminent danger eligible for membership in the organization; **Pages H4587–89**

100th anniversary of Dr. Carrier's Invention of Air Conditioning: H. Con. Res. 413, honoring the invention of modern air-conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary;

Pages H4589–91

Clarence Miller Post Office, Lancaster, Ohio: H.R. 4755, to designate the facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, as the "Clarence Miller Post Office Building" (agreed to by a yea-and-nay vote of 389 yeas with none voting "nay," Roll No. 297); **Pages H4591–92 (continued next issue)**

Blackwater National Wildlife Refuge Expansion, H.R. 4807, to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Susquehanna National Wildlife Refuge. Agreed to amend the title so as to read: "A bill to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge."; and **Pages H4596–97**

Honoring the American Zoo and Aquarium Association: H. Con. Res. 408, honoring the American Zoo and Aquarium Association and its accredited member institutions for their continued service to animal welfare, conservation education, conservation research, and wildlife conservation programs.

Page H4598

Suspension Failed—Expansion of Aviation Capacity in the Chicago Area: The House failed to agree to suspend the rules and pass H.R. 3479, to expand aviation capacity in the Chicago area, by a yea-and-nay vote of 247 yeas to 143 nays, Roll No. 298. **(See next issue.)**

Suspensions—Proceedings Postponed: The House completed debate on the following motions to suspend the rules. Further proceedings were postponed until Tuesday, July 16:

Honoring Ted Williams: H. Res. 482, honoring Ted Williams and extending the condolences of the House of Representatives on his death;

Pages H4592–94

Congratulating the Detroit Red Wings on its Stanley Cup Championship: H. Res. 452, congratulating the Detroit Red Wings for winning the 2002 Stanley Cup Championship; and **Pages H4594–96**

50th Anniversary of the Constitution of the Commonwealth of Puerto Rico: H. Con. Res. 395, amended, celebrating the 50th anniversary of the constitution of the Commonwealth of Puerto Rico.

Pages H4598–H4601

Meeting Hour—Tuesday, July 16: Agreed that when the House adjourns today, it adjourn to meet at 10 a.m. on Tuesday, July 16 for morning-hour debate. **(See next issue.)**

Senate Messages: Message received from the Senate today appears on page H4577.

Amendments: Amendments ordered printed pursuant to the rule appear on pages H4606–08.

Quorum Calls—Votes: Three yea-and-nay votes developed during the proceedings of the House today and will appear in the next issue. There were no quorum calls.

Adjournment: The House met at 12:30 p.m. and adjourned at 10:34 p.m.

Committee Meetings

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS

Committee on Rules: Granted, by voice vote, an open rule on H.R. 5093, making appropriations for the Department of the Treasury, Postal Service and General Government for the fiscal year ending September 30, 2003, providing one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. The rule provides that amendments printed in the Rules Committee report accompanying the resolution shall be considered as adopted in the House and in the Committee of the Whole. The rule waives points of order against provisions in the bill, as amended, for failure to comply with clause 2 of rule XXI (prohibiting unauthorized appropriations or legislative provisions in an appropriations bill), except as specified in the resolution. The rule provides that the bill shall be considered for amendment by paragraph. The rule waives points of order during consideration of the bill against amendments for failure to comply with clause 2(e) of rule XXI (prohibiting non-emergency designated amendments to be offered to an appropriations bill containing an emergency designation). The rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the Congressional Record. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Skeen, Dicks, and Kildee.

IN THE MATTER OF REPRESENTATIVE JAMES A. TRAFICANT, JR.

Committee on Standards of Official Conduct: Adjudicatory Subcommittee held a hearing in the Matter of Representative James A. Traficant, Jr., to determine whether any counts in the Statement of Alleged Violations have been proven by clear and convincing evidence. Testimony was heard from Representative Traficant, and the following Counsels of the House Committee on Standards of Official Conduct: Bernadette Sargeant; Kenneth Kellner, and Paul Lewis.

Hearings continue tomorrow.

HOMELAND SECURITY ACT

Select Committee on Homeland Security: Held a hearing on H.R. 5005, Homeland Security Act of 2002. Testimony was heard from Tom Ridge, Assistant to the President, Office of Homeland Security Advisor.

Hearings continue tomorrow.

COMMITTEE MEETINGS FOR TUESDAY, JULY 16, 2002

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Agriculture, Nutrition, and Forestry: to hold hearings to examine livestock packer ownership issues, 10 a.m., SD–562.

Committee on Appropriations: Subcommittee on Defense, business meeting to mark up H.R. 5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, 10 a.m., SD–192.

Full Committee, business meeting to mark up proposed legislation making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, 2 p.m., S–128, Capitol.

Subcommittee on Commerce, Justice, State, and the Judiciary, business meeting to mark up proposed legislation making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003, 3 p.m., S–128, Capitol.

Subcommittee on Foreign Operations, business meeting to mark up proposed legislation making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003, 5:15 p.m., SD–116.

Subcommittee on Labor, Health and Human Services, and Education, business meeting to mark up proposed legislation making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2003, 5:30 p.m., SD–124.

Committee on Banking, Housing, and Urban Affairs: to hold oversight hearings to examine the Semi-Annual Report on Monetary Policy of the Federal Reserve, 10 a.m., SH–216.

Committee on Commerce, Science, and Transportation: to hold hearings on the nomination of Jonathan Steven Adelstein, of South Dakota, to be a Member of the Federal Communications Commission, 2:30 p.m., SR–253.

Committee on Energy and Natural Resources: to hold hearings to examine the Administration's plans to request additional funds for wildland firefighting and forest restoration as well as ongoing implementation of the National Fire Plan, 2:30 p.m., SD–366.

Committee on Environment and Public Works: with the Committee on the Judiciary, to hold joint hearings to examine new source review policy, regulations, and enforcement activities, with respect to clean air, 10 a.m., SD–106.

Committee on Finance: to hold hearings to examine homeland security and international trade issues, 10 a.m., SD–215.

Full Committee, business meeting to consider S. 2221, to temporarily increase the Federal medical assistance percentage for the Medicaid program, 2 p.m., SD–215.

Committee on Health, Education, Labor, and Pensions: to hold hearings to examine the proposed Department of Homeland Security issues, 10 a.m., SD–430.

Select Committee on Intelligence: to hold a joint closed briefing with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001, 10 a.m., S–407, Capitol.

Committee on the Judiciary: with the Committee on Environment and Public Works, to hold joint hearings to examine new source review policy, regulations, and enforcement activities, with respect to clean air, 10 a.m., SD–106.

Subcommittee on Administrative Oversight and the Courts, to hold hearings to examine the Federal Bureau of Investigations computer hardware problems from 1992 to 2002, 2 p.m., SD–226.

House

Committee on Armed Services, Merchant Marine Panel, hearing on U.S. ownership and control of vessels operating in the Maritime Security Program, 1 p.m., 2212 Rayburn.

Committee on the Budget, hearing on Mid-Session Review, 10:30 a.m., 210 Cannon.

Committee on Education and the Workforce, hearing on ''Access to Higher Education for Low-Income Students: A Review of the Advisory Committee on Student Financial Assistance Report on College Access,'' 10:30 a.m., 2175 Rayburn.

Subcommittee on Workforce Protections, hearing on ''Can a Consensus Be Reached to Update OSHA's Permissible Exposure Levels (PELs),'' 2 p.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Environment and Hazardous Materials and the Subcommittee on Health, joint hearing on Recent Developments in the EPA Office of the Ombudsman, 10 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, hearing regarding the Department of the Treasury's policy on the Government Sponsored Enterprises, 2 p.m., 2128 Rayburn.

Committee on Government Reform, Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, hearing on EPA Cabinet Elevation: Agency and Stakeholder Views, 3 p.m., 2154 Rayburn.

Subcommittee on National Security, Veterans' Affairs and International Relations, hearing on Missile Defense: A New Organization, Evolutionary Technologies and Unrestricted Testing, 10 a.m., 2154 Rayburn.

Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, to mark up the following bills: H.R. 2526, Internet Tax Fairness Act of 2001; and H.R. 3995, Housing Affordability for America Act of 2002, 5 p.m., 2237 Rayburn.

Committee on Resources, Subcommittee on Energy and Mineral Resources, hearing on ''The Growing Natural Gas Supply and Demand Imbalance: the Role that Public Lands and Federal Submerged Lands could play in the Solution,'' 10 a.m., 1324 Longworth.

Subcommittee on National Parks, Recreation and Public Lands, hearing on the following bills: H.R. 3434, McLoughlin House National Historic Site Act; H.R. 3449, to revise the boundaries of the George Washington Birthplace National Monument; and H.R. 4953, to direct the Secretary of the Interior to grant to Deschutes and Crook Counties in the State of Oregon a right-of-way to West Butt Road, 2 p.m., 1334 Longworth.

Committee on Small Business, Subcommittee on Workforce, Empowerment and Government Programs, hearing on Restructuring SBA, 2 p.m., 2360 Rayburn.

Committee on Standards of Official Conduct, Adjudicatory Subcommittee, to continue hearings in the Matter of Representative James A. Traficant, Jr., to determine whether any counts in the Statement of Alleged Violations have been proven by clear and convincing evidence, 10 a.m., 2118 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, oversight hearing on Problems with the FAA Organizational Structure, 2 p.m., 2167 Rayburn.

Subcommittee on Highways and Transit, hearing on Long-term Outlook on Highway Trust Fund: Are Fuel Taxes a Viable Measure? 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, to mark up the following bills: H.R. 4940, Arlington National Cemetery Burial Eligibility Act; H.R. 5005, 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; H.R. 3645, Veterans Health-Care and Procurement Improvement Act of 2002; 9:30 a.m., followed by a hearing on H.R. 4939, Veterans Medicare Payment Act of 2002, 10 a.m., 334 Cannon.

Select Committee on Homeland Security, to continue hearings on H.R. 5005, Homeland Security Act of 2002, 10 a.m., 345 Cannon.

Joint Meetings

Joint Meetings: Senate Select Committee on Intelligence, to hold a joint closed briefing with the House

Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001, 10 a.m., S–407, Capitol.

Commission on Security and Cooperation in Europe: to hold hearings to examine the state of property restitution in Central and Eastern Europe for American claimants, 2 p.m., 334 Cannon Building.

Next Meeting of the SENATE

9:30 a.m., Tuesday, July 16

Senate Chamber

Program for Tuesday: After the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate will continue consideration of the motion to proceed to consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act.

(Senate will recess from 12:30 p.m. until 2:15 p.m., for their respective party conferences.)

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Tuesday, July 16

House Chamber

Program for Tuesday: Consideration of Suspensions:

(1) H. Res. 448, Recognizing The First Tee;

(2) H.R. 4866, Fed Up Higher Education Technical Amendments;

(3) H. Res. 460, Recognizing and honoring Justin W. Dart, Jr.;

(4) H. Res. 482, Honoring Ted Williams (rolled vote);

(5) H. Res. 452, Congratulating the Detroit Red Wings (rolled vote); and

(6) H. Con. Res. 395, Celebrating the 50th anniversary of the Constitution of the Commonwealth of Puerto Rico (rolled vote).

Consideration of H.R. 5093, FY 2003 Department of Interior Appropriations (open rule, one hour of debate).

Extensions of Remarks, as inserted in this issue

HOUSE

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(House proceedings for today will be continued in the next issue of the Record.)

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