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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LAHOOD).

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
July 24, 2002.

I hereby appoint the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

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

PRAYER

The Reverend Samer Youssef, Antiochian Orthodox Church of the Redeemer, Los Altos Hills, California, offered the following prayer:

O God, who miraculously revealed Your teaching that evil cannot be overcome except by good, in the preserved pages of the Scriptures recovered from the arsonist-burned Antiochian Orthodox Church of the Redeemer in Los Altos Hills, California, on April 7, 2002, where we read: ''You have heard an eye for an eye and a tooth for a tooth, but I say to you do not resist the one who is evil, but if anyone strikes you on your right cheek, turn to him the other also.''

I beseech You, O Lord, on behalf of these Your servants who are gathered here together under Your divine authority, the Members of this House of Representatives, to guide them in all goodness and righteousness for the welfare of this Nation. Bestow Your grace, wisdom, and strength upon them. Protect them at all times. Enlighten their hearts and minds to be instruments of Your love and compassion in leading this great Nation as it seeks to offer Your principles of peace and justice to the entire world; now and ever and unto ages of ages. 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 South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain one 1-minute to be given by the gentlewoman from California (Ms. ESHOO), who represents the guest chaplain.

The Chair will entertain ten 1-minutes on each side following the suspension vote.

TRIBUTE TO FATHER SAMER YOUSSEF

(Ms. ESHOO asked and was given permission to address the House for 1 minute.)

Ms. ESHOO. Mr. Speaker, this morning the House of Representatives welcomes Father Samer Youssef, who has come here from California, from my congressional district in Northern California in the heart of the Silicon Valley.

On April 7, a tragedy befell our community and the Parish of the Church of the Redeemer in Los Altos Hills, the Antiochian Church. An arsonist set fire to that magnificent church, and it burned to the ground. But Father Youssef and the entire Parish, together with our entire community, firefighters, the sheriff's department, churches, the temple, the Catholic Church came together to heal and his leadership is healing. His leadership has spoken to the magnificence of the great principles of America, that we believe in justice but more importantly or just as importantly we believe in one another.

And so we have come past this tragedy in our community. Together people from throughout our congressional district have placed contributions at the table to not only rebuild the church through their good faith and their contributions but to send a signal to people across our country and across the world that no arsonist, that no one who tries to terrorize our community will win. We are stronger, we are better, we are faith filled because of Who and what we believe in.

So I thank Father Youssef for coming to Washington. I thank him for his faith and leadership, and I thank my colleagues for his warm welcome, to not only the father but to his magnificent family who is seated in the gallery. And we can hear his son's approval, his 18-month-old son's approval.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds Members not to refer to people in the gallery.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement.

On July 24, 1998, at 3:40 p.m., Officer Jacob J. Chestnut and Detective John M. Gibson of the United States Capitol

Printed on recycled paper.

Police were killed in the line of duty defending the Capitol against an intruder armed with a gun.

At 3:40 p.m. today, the Chair will recognize the anniversary of this tragedy by observing a moment of silence in their memory.

COST OF WAR AGAINST TERRORISM AUTHORIZATION ACT OF 2002

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4547, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and pass the bill, H.R. 4547, as amended, on which the yeas and nays are ordered.

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

[Roll No. 335]

YEAS—413

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

NAYS—3

Kucinich
Lee
McKinney

NOT VOTING—18

Bishop
Bonior
Burton
Clay
Condit
Ehrlich
Engel
Hall (OH)
Johnson, Sam
Kaptur
Lipinski
Meek (FL)
Paul
Platts
Stearns
Traficant
Young (AK)
Young (FL)

□ 1032

Messrs. ROYCE, JACKSON of Illinois, and CAMP changed their vote from ''nay'' to ''yea.''

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMEMBERING OFFICER CHESTNUT AND DETECTIVE GIBSON

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

Mr. DELAY. Mr. Speaker, another year has passed since we lost our dear friends, Officer J.J. Chestnut and Detective John Gibson. They were struck down as they stood tall for everyone that works in this building that we love so deeply.

This past year brought forth a renewed appreciation across America for the virtues that both of these men showed all of us 4 years ago: bravery, fortitude, tenacity, and commitment. Officer Chestnut and Detective Gibson inspired all of us with unflinching devotion.

They now stand at the proud formation of the New York firefighters and police officers and the soldiers and sailors that also died saving lives on September 11.

Mr. Speaker, Churchill once said, ''Courage is rightly esteemed the first of human qualities because it is the quality which guarantees all others.''

The courage of citizens like J.J. Chestnut and John Gibson has always been and will always be the true, firm foundation of American democracy.

The willingness of millions of Americans to place themselves between danger and freedom over the years has always been the most powerful natural force for change in history.

Some may have thought that our sense of gratitude and our love for these men would have been dimmed with the passage of time, but the opposite is true. We are now even more sharply aware of the danger present in our world and the enormous debt we owe the men and women who protect us.

Our hearts and our prayers go out to the families of Officer J.J. Chestnut and Detective John Gibson. They can be certain that we will always cherish the memories of their loved ones, we will always remember their sacrifice, and we will always defend the freedom that they loved.

COMMEMORATING DELTA SIGMA THETA SORORITY, INC.

(Mrs. JONES of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I would like to join with my colleague, the gentleman from Texas (Mr. DELAY), today as we memorialize the loss of Officer Chestnut and Detective Gibson on behalf of the whole House, and I speak on behalf of the Democratic side as well.

I rise this morning, Mr. Speaker, to commemorate my sorority, Delta

Sigma Theta Sorority, Inc., that is celebrating its annual convention in Atlanta, Georgia. I am proud to be a member of that sorority that hosts more than 200,000 members across this country and internationally, women who have graduated from colleges all over this world. We are not only a sorority in the sense that people talk about sororities, but we are a national service sorority, having been involved in many projects throughout this country to raise the level of consciousness of women and folk across the country.

So I just want to celebrate the President of our organization, Gwendelynn Boyd, and all of our other national members, and the immediate past president, Marsha Fudge, now the mayor of the city of Warrensville Heights, Ohio.

RECOGNIZING AND COMMENDING THE BRAVERY AND COURAGE OF TERESA JACOBO

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

Mr. GIBBONS. Mr. Speaker, today I rise to recognize and commend the bravery of a young, 10-year-old girl from Elko, Nevada.

Teresa Jacobo's quick thinking and courage saved her family possibly from death or injury from a House fire last week.

Last Wednesday morning, young Teresa immediately called the fire department and 911 when she heard the smoke detector go off and woke her up in her room. She then woke up her family to alert them to danger.

Elko Fire Marshal Dave Greenan said Teresa's ''actions prevented what could have been a true disaster.''

The young girl has been recognized by the Elko Fire Department for her actions, and I too would like to echo their sentiment.

It is my hope that all children would react so bravely to such a situation.

Like the firefighters that responded to her call, Teresa represents the best of the American spirit, and she probably never even thought twice about doing what she did.

Thank you, Teresa. You not only saved your family, but you made Nevada proud.

RECOGNITION IN THE SAMANTHA RUNNION CASE

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, I rise to recognize the tireless efforts of the Orange County Sheriff's Department, the Riverside County Sheriff's Department, the FBI, and the numerous local law enforcement agencies who contributed to a prompt arrest last week in one of the largest manhunts in Orange County's history.

Tragically, 5-year-old Samantha Runnion's body was found last Tuesday, a day after she was abducted from her apartment complex.

Four minutes after Samantha's kidnapping was reported, an Orange County Sheriff'S Deputy was right there on the scene. A county-wide alert was sounded within 10 minutes, and the Child Abduction Regional Emergency Signal went out within the hour, allowing local radio stations to broadcast a description of the kidnapper.

When Samantha's body was found, 400 FBI and Orange County investigators responded to the scene, collecting physical evidence and following up on over 2,000 tips they received from the public. This investigation led to the arrest of a key suspect in Samantha's murder just 4 days after she was reported missing. The Orange County Sheriff's Department remains dedicated to this investigation until a conviction in this case.

Law enforcement and the local community in Orange County have delivered a strong message in this case: Samantha's death and other such horrendous crimes will not be tolerated in our community.

CONGRATULATING SANDRA PEEBLES

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to congratulate Sandra Peebles, a constituent of my congressional district, for her support of the Leukemia and Lymphoma Society in its fight to find a cure for these deadly diseases.

Susan became involved with the society's team and training with the goal of completing a 13-mile marathon by September 1.

Leukemia is the number one killer of children under the age of 15; and with the commitment of individuals like Susan, however, the cure for lymphoma and leukemia will one day become a reality.

Susan gets donations from concerned citizens as she runs her marathon on behalf of the Leukemia and Lymphoma Society.

I am proud to know generous and concerned individuals like Susan Peebles who give up their time for such a worthy cause. I ask my congressional colleagues to join me in congratulating Susan Peebles and the Leukemia and Lymphoma Society.

HONORING TIM MILLER AND MEMBERS OF THE TEXAS EQUUSEARCH MOUNTED SEARCH AND RECOVERY TEAM

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

Mr. LAMPSON. Mr. Speaker, I rise today to honor Tim Miller and the members of the Texas EquuSearch Mounted Search and Recovery Team.

The first official meeting of this organization was held in August of 2000; and since then, Texas EquuSearch has been on nearly 100 searches in 2 short years. They have an admirable record of working constructively with our Nation's local law enforcement and the Federal Bureau of Investigation; and right now, Tim and Texas EquuSearch are on still another search near their headquarters in Dickinson, Texas.

Texas EquuSearch stands for a great deal. Tim Miller founded the search team in loving memory of his 16-year-old daughter, Laura Miller, who was abducted and murdered in 1984. The success rate of Texas EquuSearch in finding our missing and returning many of them home alive to their loved ones is truly impressive and a living tribute to the spirit of Laura Miller. Her spirit is alive today in the heart of the Texas EquuSearch members and supporters.

Texas EquuSearch Mounted Search and Recovery Team searches for our Nation's missing and abducted children and adults.

Mr. Speaker, I rise today to applaud and to urge on Texas EquuSearch to continue forward in their mission, assuring that ''the lost are not alone.''

JOIN THE FIGHT AGAINST CORPORATE CORRUPTION

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

Mr. FOLEY. Mr. Speaker, last week I asked this body to consider immediately the Sarbanes bill. Thank God we had a conference committee, because our bill is actually now stronger than the Senate product, including more jail time, including forfeiture of ill-gotten gains.

Now, on the other side of the aisle, they have been asking for hearings; they have been talking about the Vice President and the President.

Let me suggest to them if they want to have good hearings, let us call Senator CORZINE who headed Goldman Sachs, and let us call Secretary Robert Rubin, the Clinton Secretary of the Treasury, who headed CitiGroup. When we talk about Enron, we ought to talk about all of the players.

There seems to be some real mischief. In fact, Goldman Sachs, Mr. CORZINE used $60 million to run for the Senate. Goldman Sachs was hyping Enron stock past $90. They encouraged people to buy it. So if we are going to have hearings, Mr. Speaker, let us have Goldman Sachs, let us have CitiGroup.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would ask Members not to make references to sitting Senators in violation of the rules.

WEALTHY CORPORATIONS AVOID THEIR FAIR SHARE OF TAXES

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

Mr. STRICKLAND. Mr. Speaker, the American people need to know what is happening. Wealthy corporations are choosing to leave America, go to Bermuda, get a post office box, simply to avoid paying their fair share of taxes.

This is happening at a time when our colleague, the gentlewoman from Connecticut (Ms. DELAURO), tried to get an amendment to the Postal-Treasury appropriations bill that would say, if a corporation does this, they should not have access to lucrative Federal contracts. But the leadership in this House said oh, no, we cannot do that.

At a time when we are raising the cost of prescription drugs on our veterans from $2 to $7 a prescription, and at a time when the pension for wartime veterans' widows is a measly $534 a month, we are allowing wealthy corporations, in a time of war, to avoid their fair share of American taxes.

□ 1045

Who is going to pay those taxes? Are veterans?

BORN-ALIVE INFANTS PROTECTION ACT

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

Mr. SHIMKUS. Mr. Speaker, thank you, Jill Stanck. Jill is an obstetrical nurse at Christ Hospital in Illinois. After observing a child born alive after an abortion procedure and left to die, she became involved in righting this wrong through the legislative process, hence, the Born Alive Infant Protection Act.

On July 18 the other body voted unanimous consent to approve the Born Alive Infants Protection Act. The bill is now sent to the President for his signature. This bill passed both Chambers easily because we all felt, prolifers and those that are pro-choice, that infants who are born alive at any stage of development are individual human beings who are entitled to the full protection of the law.

Thanks to the work of Jill Stanck, the Concerned Women of America, Members of both the House and the Senate, and soon President Bush, a baby born alive will not be left to die in a hospital again.

CUBAN POLITICAL PRISONER DR. OSCAR ELIAS BISCET

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

Mr. DEUTSCH. Mr. Speaker, many of us here in this Chamber have adopted Cuban political prisoners in order to publicize their unjustified incarceration. We have done so in hopes of helping them to regain their freedom and shed light on the numerous injustices and human rights violations of the Castro regime in Cuba.

Mr. Speaker, it is my honor today to discuss my adopted Cuban prisoner, Dr. Oscar Biscet. Inspired by Gandhi and Dr. Martin Luther King, Dr. Biscet's nonviolent resistance to the Cuban government has received international attention. As president of the Lawton Foundation for Human Rights, Dr. Biscet was arrested 40 times in three months for his peaceful opposition and organizing activities.

In 1999, he carried out a 40-day prayer fast and organized schools on nonviolent tactics. This soft-spoken physician was condemned to 3 years in prison for hanging a Cuban flag upside down at a press conference.

Recognized by Amnesty International as a prisoner of conscience, Dr. Biscet has suffered through solitary confinement, torture, and an appalling lack of medical care. Still his faith in mankind endures, as he demonstrated when he told the policemen who were torturing him with lit cigarettes, God loves you.

Mr. Speaker, allowing for political dissent and debate is a fundamental reason why democracy adapts to, and represents the will of the people. I urge the Cuban government to listen to the will of its people, to end its continued human rights abuses, and to release Dr. Biscet and other political prisoners like him immediately.

COMMEMORATING INDIA'S INDEPENDENCE DAY

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

Mr. WILSON of South Carolina. Mr. Speaker, on August 15, 1947, India became an independent nation. Just as Americans look forward to their day of freedom every July 4, people of all faiths come together in India to celebrate a struggle for independence begun by Mahatma Gandhi.

Both America and India fought against British domination to secure freedom for their nations. People in both countries cherish the freedoms found in our respective constitutions, such as freedom of speech and freedom of religion. The framers of India's constitution were greatly influenced by the founding fathers of America, James Madison, Thomas Jefferson, John Adams and George Washington.

America is now the world's oldest parliamentary democracy and India the world's largest democracy. The future looks bright for both of our countries. We have grown closer since victory in the Cold War, and rightfully so since we share the same values. America and India should take action to boost our bilateral trade and must coordinate defense strategies to maintain stability in South Asia. Both America and India serve as models for democracy and freedom around the world. And our independence days are symbols of these achievements.

STOP THE VIOLENT OFFENDERS AGAINST CHILDREN DNA ACT OF 2002

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this Nation must express outrage about its murdered, abused and sexually violated children. Samantha Runnion, and Elizabeth Smart and Laura Ayala in my own district and Danielle Van Dam and Rilya Wilson out of Florida missing for a year. We must express our outrage.

Only 22 States in this Nation require of sex offender registries to keep DNA samples, the very materials that allow those very effective law enforcement in California to find the horrific alleged murderer of Samantha Runnion. That is why this week I will offer the Save Our Children, Stop the Violent Offenders Against Children DNA Act of 2002, that will instruct the Attorney General to hold a separate, free-standing DNA database for all sex offenders and offenders against children in this Nation.

We wish we did not have this kind of violence against our children, our most precious resources, but we should give every opportunity to our law enforcement to be able to find the perpetrator quickly and bring he or she to justice.

What an outrage, killing our babies, and no one standing up to say a word. We must have the ability to solve these crimes and stop these crimes.

DEPARTMENT OF HOMELAND SECURITY

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

Mr. RYUN of Kansas. Mr. Speaker, shortly after the events of September 11, we made a promise that we would fight the war on terror to its finish in order to ensure security of every American. Recognizing this, President Bush has outlined a plan to consolidate homeland security functions into the Department of Homeland Security.

The President warned us that making such a major change could be very contentious and this has been proven to be somewhat true. Some are afraid that the traditional missions not related to homeland security may not be adequately filled after restructuring. Others simply balk at the idea of leaving the status quo.

We must use every resource to ensure that the loss of innocent life does not occur again. To achieve that again, we will cut through bureaucracies and consolidate numerous agencies to ensure that future terrorist attacks are prevented.

Our best tool to accomplish this goal is to establish a Department of Homeland Security. Let us keep our promise to the American people.

WAR WITH IRAQ

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

Mr. KUCINICH. Mr. Speaker, last night the House passed a $28.9 billion supplemental appropriations bill, $14.5 billion of which was for military funding. Today the House has authorized another $10 billion for an undefined war on terrorism. Barely a day goes by where we do not see reports that the administration is in the advanced stages of planning a preemptive military strike against Iraq. H.R. 4547, the Cost of War Against Terrorism Authorization Act, would authorize over $480 million for chemical and biological defense as well as $598 million in funding for a Tomahawk missile conversion.

Is this military hardware needed in Afghanistan or are these funding priorities directed at preparing the United States for war with Iraq?

EXCELLENCE IN MILITARY SERVICE ACT

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

Mr. COBLE. Mr. Speaker, I rise today to introduce the Excellence in Military Service Act. This legislation would increase the active duty service obligation of military service academy graduates from 5 to 8 years.

This free and highly competitive college education costs the average taxpayer approximately $300,000 per cadet/midshipman.

As college tuitions continue to escalate, I believe our U.S. military academies will become even more attractive to prospective college students. In light of this fact, we need to ensure that a free education does not become a primary motivation for future applicants. I maintain that increasing the active duty service obligation is an effective way to accomplish this without jeopardizing the viability of these historic institutions.

I hope my colleagues will join with me in co-sponsoring this legislation, and I look forward to working with them to protect the U.S. taxpayers' investments and our Nation's future and ensure the integrity of one of our Nation's most precious resources.

CORPORATE REFORM

(Mrs. MALONEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, I rise in support of real corporate reform legislation and urge the conference committee to adopt the proposals put forth by Senator SARBANES.

Financial markets around the world are in a highly anxious mood, U.S. fiscal policy is plunging our country back into deficits, and the credibility of some of our most trusted companies' financial statements is undermined. This is no time to delay the establishment of fully independent oversight of the industry by a newly created public accounting board that is not under accounting industry control.

As the conference committee nears its completion, the funding for the new oversight board must not be used as a means of undermining its independence.

Senator SARBANES' legislation provides the board with funding from public companies as they are audited, a mechanism that separates the board funding from the accounting firms it will oversee and it protects its independence.

The Sarbanes legislation will not turn the markets around by itself but it will send a message to investors here and abroad that Congress is serious about removing the conflicts of interest.

MEDICARE MODERNIZATION AND PRESCRIPTION DRUG ACT OF 2002

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

Mr. LEWIS of Kentucky. Mr. Speaker, it is time to provide prescription drugs for our senior citizens. It is time to stop fussing and discussing and get down to business.

We just passed recently in this House a Medicare Modernization and Prescription Drug Act of 2002. This Act provides immediate relief from high drug costs with prescription drug discount cards and immediately implements a program to assist low income beneficiaries with their costs. It supplies significant front-end coverage of drug costs from government coverage. 80 percent paid on the first $1,000. It saves seniors more on their drug costs than any other bill in Congress. It lowers pharmaceutical manufacturing drug prices by $18 billion with best price provisions, offers catastrophic protection, 100 percent coverage after $3,700 in drug costs, and it covers all costs except nominal co-pays for low income seniors up to 175 percent of poverty.

Mr. Speaker, it is time that the two bodies come together and provide our senior citizens with prescription drug coverage. Now is the time. Today is the day and we should do it before this year is out.

PUNISH CORRUPT CEO'S AND ACCOUNTANTS

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

Mr. ISRAEL. Mr. Speaker, as a New Yorker I know that on the hottest ticket on Broadway has been a comedy, The Producers. The tragedy with recent financial scandals is that we are running the plot line of The Producers in real life.

In The Producers, the accountant, Leo Bloom, is sent to conduct an independent audit of the producer, Max Bialystock. Bialystock begs the accountant to find a way to fudge the books to enhance his earnings. So the accountant finds a way to sell 2,000 percent of stock options in Bialystock's company, losing his independence and becoming part of a scam.

The difference is only on Broadway and in the movies do the accountants and CEO's go to jail. In real life, no one has gone to jail, no personal bankruptcies in senior management, no disgorgements, no accountability. Just victims who have lost it all.

Unlike in The Producers, no one is laughing, not our senior citizen, not our middle class families who are watching their children's tuition funds disappear, not hard-working taxpayers who have to put their retirements on hold. The American dream is turning into an American tragedy right before our eyes and no one is laughing.

BRING MAIN STREET ETHICS TO WALL STREET

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

Mr. KINGSTON. Mr. Speaker, back in April 24 when the House Republicans passed Financial Accountability we had three main points to it. Number one, disclosure of facts. Disclosure of facts to employees, to shareholders, to anyone who may have something at stake that there are some problems, so that people can make intelligently investment decisions.

Number two, if you break the law you are going to jail. We have laws against robbing banks, but people still rob banks, but when they do we put them in jail. There is no difference when you steal somebody's pension plan, you are stealing money. You ought to go to jail. You do not have the guts of somebody who would grab a purse and do it in person. You do it behind the cloak of corporate secrecy, behind the cloak of some accounting firm that you are in cahoots with. But if you are caught, you are going to jail.

Number three, if you are the CEO of some big corporation and you have done this, you do not get to retire in your mansion. You do not get to go off to your mountain home. In fact, you get to be a guest of the government inside a penitentiary. That is what we are after.

Let me say this: We need to bring the ethics of Main Street to Wall Street. It is time to have corporate accountability and pass a Republican plan.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 488 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5120.

□ 1059

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (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, and for other purposes, with Mr. DREIER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 23, 2002, amendment No. 5 offered by the gentleman from New York (Mr. RANGEL) had been disposed of and the bill was open from page 75, line 11, through page 103, line 10.

Pursuant to the order of the House of that day, no further amendment to the bill may be offered except:

Pro forma amendments offered by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

Amendments numbered 2, 8, 12, and 18 printed in the CONGRESSIONAL RECORD, debatable for 5 minutes each;

An amendment offered by the gentleman from Georgia (Mr. BARR) regarding a national media campaign, and an amendment by the gentleman from California (Mr. GEORGE MILLER) regarding Federal acquisition regulation, debatable for 20 minutes each;

Amendment No. 16, printed in the CONGRESSIONAL RECORD, an amendment offered by the gentleman from Maryland (Mr. HOYER) regarding high sea repairs, and the amendment at the desk offered by the gentleman from Colorado (Mr. HEFLEY) debatable for 10 minutes each;

Amendment No. 21 printed in the CONGRESSIONAL RECORD, debatable for 40 minutes; and

An amendment offered by the gentleman from Vermont (Mr. SANDERS) regarding taxation of pension plans, debatable for 30 minutes.

Each amendment may be offered only by the Member designated in the order of the House, or a designee, or the Member who caused it to be printed, or a designee, shall be considered read, shall be debatable for the time specified, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment and shall not be subject to a demand for a division of the question.

AMENDMENT NO. 21 OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 21 offered by Mr. MORAN of Virginia:

At the end of title VI (page ____, line ____), insert the following:

SEC. ____. None of the funds made available in this Act may be used by an executive agency to establish, apply, or enforce any numerical goal, target, or quota for subjecting the employees of the agency to public–private competitions or converting such employees or the work performed by such employees to private contractor performance under Office of Management and Budget Circular A–76 or any other administrative regulation, directive, or policy.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Virginia (Mr. MORAN) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

This amendment is necesary because the Office of Management and Budget has issued an arbitrary requirement on all of the Federal agencies to privatize 127,500 Federal jobs by the end of this fiscal year, and as many as 425,000 Federal jobs by the end of fiscal year 2004. That is nearly a quarter of the entire Federal workforce.

OMB's one-size-fits-all arbitrary privatization quotas do not consider the unique needs of different Federal agencies, and we believe will harm the ability of those Federal agencies to most effectively carry out their missions. My amendment today is wholly consistent with what is called the FAIR Act. This is an act that requires the Federal agencies to identify what jobs could possibly be performed by the private sector. In other words, what jobs could be subject to outsourcing.

This amendment does not put a halt to any agency's ability to contract out a single Federal job, and I am not opposed to privatization where it works. There is $120 billion being contracted out now. In fact, there are more people working for the private sector doing Federal work than actual Federal employees. What this amendment is all about is imposing arbitrary one-size-fits-all quotas on all of the Federal agencies.

They are not all alike. The Internal Revenue Service is different from the Department of Defense; the Department of Defense is different from the Department of Justice; and on and on. We think managers should be able to exercise their own individual judgment and knowledge of their agency's mission. I supported the FAIR Act, I still do, but the FAIR Act intentionally left those decisions on how many or how few jobs to contract out to Federal executives.

Now, there was a Commercial Activities Panel, controversial because many of the Federal employee union organizations felt that they were not adequately represented, but they stated, as one of their principles, that the Federal Government should avoid arbitrary numerical goals. That is what this amendment does. It simply says that OMB cannot issue these arbitrary quotas across all the Federal agencies.

The Commercial Activities Panel said the success of government programs should be measured by the results achieved in terms of providing value to the taxpayer, not the size of the in-house or the contractor workforce. The use of arbitrary percentages, and I am quoting, ''the use of arbitrary percentages or numerical targets can be counterproductive.'' That is the purpose of this amendment.

On that panel was Kay Coles James, who is Director of the Office of Personnel Management, and Angela Styles, the Administrator of the Office of Federal Procurement Policy.

The Federal workforce has been reduced by 600,000 Federal jobs for functions carried out by private contractors. That trend is going to continue, but it should continue in a logical, intelligent, responsible way. This quota approach is not responsible, Mr. Chairman.

Now, as I said, there is over $120 billion for services being contracted out. That does not include any of the submarines ships, planes, tanks, et cetera. This is an effort that is going to continue, but it should continue in a responsible manner.

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

The CHAIRMAN. Does the gentleman from Oklahoma (Mr. ISTOOK) seek time in opposition to the amendment?

Mr. ISTOOK. Yes, Mr. Chairman, I seek to manage the time in opposition.

The CHAIRMAN. The gentleman is recognized for 20 minutes.

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

Mr. Chairman, I believe this is an amendment that is a wolf in sheep's clothing. We heard from its sponsor that this is supposedly to stop people from being arbitrary; to stop people from setting some arbitrary quota, as they call it. The amendment has nothing to do with whether things are being done in an arbitrary fashion. The amendment has as its goal stopping the Federal Government from privatizing or outsourcing, or even trying to, anything that involves work that is currently being done by Federal workers.

It has as its goal stopping the Bush administration's management initiative that is trying to save taxpayers significant dollars. Indeed, they project that typically, when it is proper to do so, outsourcing work can save the taxpayers 30 to 50 percent of normal cost for doing certain functions.

There is a process that is established by prior legislation of this Congress, what is called the FAIR Act, what is

known as the A76 process, and through this there has already been underway for months an effort to identify work that is done by Federal workers that is considered competitive in nature, where it is competing with the private sector. It may involve data processing, it may involve food services.

The Marine Corps, for example, Mr. Chairman, has just contracted out hiring people to feed our Marines. Rather than having to hire them at the wage rates and the benefit rates and the built-in bureaucracy of Federal employees, they hire people who are experienced in handling food; in ordering it, in preparing it, in keeping the inventories on hand, in managing the right numbers, seeking to save the taxpayers tens, if not hundreds, of millions of dollars a year.

We have already had a process that has identified, through the process that the gentleman from Virginia (Mr. MORAN) claims he supports, it has already identified 850,000 people that are on the Federal payroll, doing work that could be done by the private sector, saving the taxpayers potentially 25 to 50 percent of what we are paying now. However, the Federal employees unions, which are perhaps the strongest labor unions in the country, say we do not want that to happen. We do not care if it saves taxpayers money, we want to make sure that these are union jobs.

That is what is really behind the amendment. The amendment does not say what we have been told it says. I want to read to you, Mr. Chairman, and to the other Members, what the amendment actually says. The amendment states: ''None of the funds made available in this act may be used by an executive agency to establish, apply, or enforce any numerical goal, target, or quota for subjecting the employees of the agency to public-private competitions or converting such employees or the work performed by such employees to private contractor performance under Office of Management and Budget Circular A–76 or any other administrative regulation, directive, or policy.''

What it does is to try to stop cold the process of identifying government jobs that are commercial in nature that could be performed by the private sector. It is not about stopping some supposed arbitrary quota. The term arbitrary is not in the amendment. It says you cannot set any goal that involves a number. You cannot set any target that involves a number.

If the goal was to save the taxpayers $1, that is a numerical goal that is outlawed by this outrageous amendment. It is so overreaching. It is not trying to stop people from being arbitrary in having private-public competition, to see who can do the job, who can do it best and who can do it at the best cost for the taxpayers, it is trying to stop the very concept. It is not trying to stop quotas.

If the measure offered by the gentleman from Virginia only said we are going to stop arbitrary quotas and then defined what arbitrary quotas were, then perhaps he might have a case. But his amendment says we are outlawing any numerical goal, any numerical target. And what the Bush administration has done, through the Office of Management and Budget, after going through this process, mandated by statute, mandated by laws passed by this Congress, the process has identified 850,000 jobs currently held by Federal workers that could be done by the private sector and possibly done for as much as 50 percent less than we are paying, they have said, okay, let us try in the next year to compete 15 percent of those. That is 127,500.

It does not say we are going to award those to the private sector. It is saying that 15 percent of these Federal jobs that are commercial in nature, in the next year, are going to have to justify whether they should be Federal jobs or whether they should be outsourced potentially to the private sector, and let the private sector come in and compete and tell us this is what we say we can do and how much we say we can do it for and how we can save the taxpayers money. No guarantee of who is going to win that competition.

But the Moran amendment, by saying we outlaw any goal or any target that has a number, the number may be one employee, the number may be trying to save $1, or the number could be saying we are trying to save the taxpayers $100 million, it does not matter. Any goal, any target that involves a number under this outrageous, overreaching amendment could not happen. We would be locked into the current rate of spending.

Now, right now I am very concerned about how much of the taxpayers' money we are spending and the Moran amendment would guarantee that we could not accomplish savings for the taxpayers. We could not try to hold the line on the size of the Federal Government. We could not try to make things more efficient. We could not let the private sector save us money when they say they can. No. By using language that I believe is deceptive to people, we are told that we cannot have any sort of numerical target because they want to say, oh, that is a quota or that is not a quota.

There is no guarantee of results under the process that is underway, but there is a guarantee of results if we adopt the Moran amendment. The guarantee is taxpayers will lose money. That is the guarantee of adopting the Moran amendment. It denies opportunity to those who want to be able to perform services, whether it be data processing, delivery services, food handling, you name it. If they want to try to provide a service for less to taxpayers, the Moran amendment says ''no.''

□ 1115

Mr. Chairman, we ought to say ''no'' to the Moran amendment.

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

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to respond to the gentleman from Oklahoma (Mr. ISTOOK), I have a letter that I would like to share with the gentleman from the Federal Managers Association, which represents 200,000 executives, managers, and supervisors in the Federal Government. They say: ''This amendment would simply allow agencies to have the flexibility to make the best decisions for the use of taxpayer dollars without being forced to comply with target percentages.'' That is all they want to be able to do, to be able to exercise their executive judgment. The FAIR Act, which we supported, intentionally left the decision to the agencies on how many or how few jobs to contract out, so those agencies would have the discretion to determine how best to balance their work loads with their budgets.

I do not understand why it would jeopardize the Federal taxpayers' money when private contractors are now receiving $120 billion just for services and Federal payroll is $108 billion.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA), who is a valued member on the Subcommittee on Civil Service, Census and Agency Organization.

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I am proud to be a cosponsor and strong supporter of the amendment. The attempt to set quotas to contract out an arbitrary number achieves nothing. It is bad policy, and I would like to point out some of the misconceptions with regard to the plan: one, that the Federal employee workforce is enormous; and, two, that contracting out immediately makes the government a more efficient, cost-effective workforce. Those are both patently untrue.

Do Members know what the size of the Federal Government was in 1964? It was roughly 1.8 million workers. Do Members know what the size of the Federal work force is today? It is roughly 1.8 million employees. Those individuals railing against big government do not know the facts. If there is a big government problem, it certainly is not due to number of employees. The real growth of government has come through expansion of grants, contracts and entitlements.

Each year the Federal Government doles out $120 billion to contractors compared to $108 billion in salaries and benefits for the Federal workforce. So given this reality, I am puzzled by the recent OMB directive telling agencies to develop plans for competing at least 5 percent of positions listed on their FAIR Act inventories in the next fiscal year. OMB also says all agencies will eventually be required to compete 50 percent of their commercial jobs. That

decision is even more puzzling when studies comparing public servants with private contractors have shown that keeping work in-house is a better deal for taxpayers.

In 1994, GAO studied nine contracting-out situations, finding out that in each case tax dollars would have been saved if the work had been done by public servants. A 1998 Army study, the most comprehensive ever done, found that it was paying 46 percent more for each private contractor employee than for each Army public servant.

So the facts are in. Federal employees are a good deal for taxpayers. They do great work for the American people. Really, it is about time that we recognize that situation and stop supporting measures that undermine their efforts. It is clear that setting an arbitrary number of positions that should be outsourced compounds the problems that we have in many agencies.

To meet OMB's quotas, the Department of the Interior can contract out 97 percent of its FAIR Act jobs without public-private competition, and HHS is contracting out 70 percent of its jobs without public-private competition.

This amendment deserves to be passed, and that is why the Moran-Wolf-Morella amendment is so important and so logical.

Mr. MORAN of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise to speak in favor of the amendment. The question has always been do we take a matter in-house or outsource it. The overriding goal of procurement policy should always be, how did we get the best value for the American taxpayer, period; how do we pay the least cost for the best service.

Sometimes this can best be done in-house with trained Federal workers who have done something over a long period of time. Sometimes it can be done more efficiently by taking it out to the private sector. Sometimes it can be done because the private sector has a certain expertise and experience level we just cannot get through the Federal employees.

Now, the previous administration had numerous initiatives whereby they would eliminate Federal jobs, and they defined their success by how few Federal employees they had. This was a mistake. What we should have been asking was how much money do we save the American taxpayer, not how many employees we have, how much we are outsourcing and the like.

In some cases the jobs eliminated did not save anything because these jobs were off-budget. They were fee paid for, and they were not costing the taxpayers or the general fund a nickel. In some cases we found out we eliminated Federal jobs, but it ended up costing us more money by going outside. But it was driven by quotas, it was driven by numbers, and I submit that is the wrong approach; and that is the problem with the current legislation, which is why I support the Moran amendment because the current legislation looks at arbitrary percentages and says when it comes to outsourcing and competing things in-house, we are going to look at certain percentages in certain agencies, and we are going to define it by this rather than where do we think we can get the best value for the American taxpayer, not how much money will it save.

There is precious little evidence that the elimination of Federal employees by itself saved money during the previous administration. In some cases, as I noted before, these were fee-based employees, and whatever happened was not going to cost the taxpayers or fee payers a penny, but it was arbitrary.

Competitive sourcing is a good thing; but arbitrary quotas, numerical targets, are a bad thing. I would say to this body that the Moran amendment eliminates the arbitrary numbers. This will still allow discretion within Federal agencies to go and compete things. We should encourage them to do that where it makes sense and where we can bring savings to the American taxpayers.

Our goal should not be to preserve jobs at the Federal level, nor should it be to get a certain percentage to get outsourced. Our number one priority that should drive procurement policy, how do we get the best value to the American taxpayer, this amendment furthers that goal. That is why I urge my colleagues to support it.

Mr. MORAN of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Chairman, I rise in strong support of the Moran amendment, and also acknowledge the gentlewoman from Maryland (Mrs. MORELLA) for her work on this amendment and all of the hard work she does for Federal employees.

To meet OMB's quotas, agencies can contract out these Federal employee jobs without even conducting a public-private competition to determine what the best deal is for the American taxpayer. These targets have absolutely no demonstrated managerial, scientific, or economic justification.

The gentleman from Virginia (Mr. MORAN) is exactly right, they were picked to meet an arbitrary quota. That is not the way to run the government. Under these quotas, the IRS and the Department of Commerce and the Department of Justice, which includes the FBI which is in the forefront of the battle with regard to terrorism, will all be required to meet the same targets.

With the current response effort with the war on terrorism, that does not make any sense. This one-size-fits-all mandate does not consider the unique needs of different agencies and certainly harms the ability of Federal agencies to effectively carry out their mission. For instance, Customs Service, working under heightened levels of security, so much so that the President wants to put it into the new Department of Homeland Security, has no flexibility under these arbitrary quotas.

The Moran amendment would give Federal agencies the flexibility to contract out as much or as little of government work as they feel is necessary to meet the mission requirements. I urge Members to join us in supporting the amendment of the gentleman from Virginia (Mr. MORAN), which recognizes that decisions about how best to deliver government services at the lowest cost to taxpayers should be driven by unique agency mission requirements and not some arbitrary, numerical target or quota that no one understands.

Mr. ISTOOK. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I think part of the problem with this as part of not being what it is said to be, is that this amendment seeks to outlaw math. It says we cannot adopt a target or a goal for outsourcing jobs if there is a number involved in the goal. We cannot set a numerical target.

Each agency has identified under law what they have that are jobs being done by Federal workers that are actually commercial in nature. It could be cleaning, data processing, payroll services, construction. This says the administration's goal for each agency, take whatever they have identified, and do not try to compete them all, just compete 15 percent. They say because it is a number, they outlaw it.

If they are serious about this, they should say we should not try to compete more than this percentage of each agency's jobs; but they are trying to say we cannot set a goal that involves a number, which means we cannot set a goal. This effort to save taxpayers money will not do anything because they will stop that effort.

Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. SESSIONS).

Mr. SESSIONS. Mr. Chairman, today what we are talking about is the effectiveness of the United States Government. Today is yet another attempt by those who wish to place handcuffs and arbitrarily stop the government from making sure that the best available worker is available to do a job that is very important for the American people. This administration understands what this amendment is about, and they said the following: ''The administration understands that an amendment may be offered on the floor that would effectively shut down the administration's competitive sourcing initiatives to fundamentally improve the performance of the government's many commercial activities. If the final version of the bill would contain such a provision, the President's senior advisors would recommend that he veto the bill.''

Mr. Chairman, it is very plain what this is about. This is about an opportunity to hamper the President of the

United States, the OMB, from their ability to manage what is a dynamic workforce today on behalf of the United States Government, a workforce that is not just someone who is concerned about inherently governmental activities that the government performs, but about tens of millions of other jobs, tens of thousands of other jobs, that the government can no longer effectively manage and be able to properly make sure that the American taxpayer gets their dollar in return.

I am in favor of this government having every single penny that they need, but not more than that. We need to make sure that this government has the ability to manage its resources, whether we are talking about cooks, or people who take care of lawns, or whether we are talking about people who provide secretarial services or administrative services. What this will do today is to say directly to the OMB, who falls underneath this bill, that they cannot manage outsourcing activities to make sure that the government is properly organized and run.

□ 1130

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

Mr. SESSIONS. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I would like to say to the gentleman that one of the major concerns on our side for people who represent thousands of government employees, is that there is supposed to be a competition under A76 in order to let the civilian employees try to maintain their jobs. Sometimes they reorganize into a smaller unit and then they try to compete. Part of our concern is that OMB is saying do not do competition in order to achieve these quotas, and I think that is wrong. I think that violates the existing law. That is why we are so concerned about it. We do not object to the A76 competition if the civilians have an opportunity to compete for their jobs. I thank the gentleman for yielding.

Mr. SESSIONS. Mr. Chairman, I do appreciate that. The gentleman is a friend of mine. This is an honest discussion. The fact of the matter is that it stops dead in its tracks the Bush Administration for reform to make sure that every single government job that is performed on behalf of a grateful Nation is reviewed and looked at in terms of its ability to be price competitive and efficient, and that is what this is all about. And I believe that even those people who stand up today who are offering this amendment would argue with me. We want a more efficient Government. But this is a process that will be stopped dead in its tracks. It is not something that would maybe balance out a circumstance.

The Bush Administration, now more than ever, in dealing with the events of September 11, has had to employ many, many people outside of the Government because the Government is busy doing the things they do. The Government is having to provide all sorts of things to help people even in New York City today that would not come from a Government organization but would come from the Government. The Government simply needs the help, they need the ability, and they need the flexibility.

This is about stopping the Bush Administration from providing efficiency and the flexibility to Government. Not on a balanced measure, but on a total stopping basis because they did it right. The people who do not want this went right to OMB and where they are funded.

I urge my colleagues, I urge Members, please do not do this when now more than ever this Government needs the flexibility to address people's issues, to do it effectively and efficiently.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1½ minutes to the very distinguished gentlewoman from the District of Columbia (Ms. NORTON), our foremost advocate for civil rights and civil service.

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time and for this amendment that I hope brings us to our senses. I am bemused to hear some Republicans on this floor arguing for quotas. I thought the administration and the Republican Congress stood against quotas. I want to make it clear I do not support quotas in any context, and I certainly do not support or believe Government can tolerate deciding who gets to perform Government work by the numbers. Let us be clear. The Moran amendment leaves in place total ability to contract out work. It is contracting out without competition that assures a fair deal for the taxpayers that is at issue here on this floor. Contracting by the quotas is arbitrary on its face.

Here is an example. In 1 year, they are supposed to go from 15 percent quota to 50 percent quota in certain job categories. That does not exactly lead to careful analysis. And the DOD has decided that the way to meet such an escalated quota is to simply contract out all of the work without any competition. The other agencies are sure to follow when they see that that is how DOD is going to do it. Why not let civil servants compete to do this work? They have been doing it. Let us see who does it best. I thought that is what the other side stood for.

Another reason that makes no sense is that we need to retain workers for 3 years. We on the Subcommittee on Civil Service and Agency Organization, the House and Senate, have been working to keep workers in this Government. When they hear their work is going to be contracted out, they are going to be out of here.

PARLIAMENTARY INQUIRY

Mr. ISTOOK. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ISTOOK. Is it correct that as the advocate of the committee's position, I have the right to close?

The CHAIRMAN. The gentleman is correct.

Mr. ISTOOK. Mr. Chairman, I yield myself 1 minute and 20 seconds.

Mr. Chairman, I noticed the gentleman from Washington (Mr. DICKS) said that the intent is to make sure that, under the laws that we have passed, there is competition for jobs that are commercial in nature so that Federal employees have the right to compete against the private employees and they are not automatically outsourced. I think that is a very valid position. It is not, however, what the amendment advocates, because the amendment by its express terms prevents public-private competitions.

Any time that you set a goal, if you say we are going to have one competition between the public and private sector, it is outlawed. If you say that 1 percent of the commercial jobs in the Federal sector is going to be competed, it is outlawed. The amendment does not do what many people claim it does. The amendment stops all efforts to have public-private competitions to see if we can save taxpayers' money which typically those competitions save the taxpayers 30 to 50 percent.

The Department of Defense reports that during the Clinton administration years, they outsourced some 550 different initiatives that will be saving taxpayers about $1.5 billion each year. Those efforts could not be pursued by the administration under the language proposed by the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

The gentleman is absolutely wrong. The Federal executives will be able to contract out all the jobs they want based upon their judgment of what is in the best taxpayers' interest.

Mr. Chairman, I yield 1½ minutes to the gentleman from Washington (Mr. DICKS), the ranking member on Interior appropriations.

Mr. DICKS. Mr. Chairman, I strongly support this amendment. The FAIR Act was created to list these commercial jobs. It said nothing about quotas or forcing these jobs to be contracted out. That is all we are asking for. Do not set quotas. Let them go in and have a competition under A–76 for these jobs.

I would say to the gentleman, I have served on the Defense Subcommittee, and I know for a fact that once we contract these jobs out, then the cost of the work goes up. OMB fought against us. We used to have postcontracting audits to make certain that once the thing was contracted out, that we actually saved money and did not pay all these contractors more money than we were paying the civil servants. This is ridiculous. This Moran amendment is needed. We do not need quotas. We need A76 competition. Let us have

competition between the public employees and the private employees and let us see who can do the best job and let us do it on an agency by agency basis. Let us support the Moran amendment.

Mr. MORAN of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. STRICKLAND).

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

Mr. STRICKLAND. Mr. Chairman, as the founder and cochairman of the Correctional Officers Caucus, I rise in support of this amendment.

I rise today in support of the Moran-Wolf-Morella amendment. As a co-chairman of the Congressional Correctional Officers Caucus, I am acutely aware of the placement of thousands of correctional jobs in our Federal prisons on the FAIR Act inventory. Here's a list from the Department of Justice—it lists 10,260 DOJ jobs that are quote-unquote ''commercial activities.'' Of those ten thousand jobs that the OMB would have us turn over to the private sector, 7,670 are from the Federal Bureau of Prisons. Quite frankly, anyone who says that a job in a prison is ''not inherently governmental'' has not spent enough time in a prison. I worked in a state correctional facility in Ohio for eight years and I will not accept that OMB should be able to force a prison to replace its trained correctional workers with untrained, private-sector cooks or night-shift janitors just because the cost is cheaper. Prisons can be dangerous, and workers cannot switch between private-sector jobs and prison jobs without risking their own safety and that of others. Now, more than ever, with our increased focus on terrorism, we need trained, Federal, correctional workers in our Federal prisons. These prisons often serve as administrative holding pens for the INS and Federal courts for terrorists. For example, in 1998, two defendants on trial for the 1993 World Trade Center bombing assaulted an employees of a facility in Lower Manhattan, immobilizing him for life. This amendment would prevent OMB from setting prison policy. It would ensure that our Federal correctional workers are just that: Federal. For this House to vote to federalize all baggage screeners at airports, and then to allow OMB to force ill-prepared workers into the ranks of our Federal prisons is abominable. Let's let the agencies manage their own personnel, and let OMB manage itself. Vote ''Yes'' on the Moran-Wolf-Morella amendment.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. DAVIS).

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Chairman, this amendment recognizes the principle that competition should drive decisions about work management. We all know that over the years, there has been some sentiment that somehow or another government work is inferior, that the private sector can do it more effectively, more efficiently and save the taxpayers money. But that is a flawed notion. It is a flawed argument. There is a cadre, a corps of competent, hard-working Federal employees who have the expertise and skill to do the job. We need to provide for them the opportunity to compete, to display their skills and talent. That means the only way we can do it is to support the Moran amendment. I urge its support.

Mr. ISTOOK. Mr. Chairman, I yield myself 2½ minutes.

I think the most important thing that anybody can do, Mr. Chairman, in this particular debate, or any debate when people say, well, this amendment does one thing and someone says, no, it does not, it does something else, the most important thing people can do is read the amendment. Look for yourself.

The gentleman from Virginia would have people believe that this amendment is just about outlawing quotas, that it is about outlawing arbitrariness.

Not at all. Nothing in the amendment says anything about arbitrary decisions. And although, yes, it does mention outlawing quotas, it goes far, far beyond that. It outlaws setting goals. It outlaws the very first steps in the process of trying to determine whether taxpayers are best served by having certain work done by government workers or by workers in the private sector.

We spent a lot of time in this Congress setting up this process to compete public and private jobs, but the amendment states, you cannot establish, and I quote, any numerical goal, target or quota. It does not say we are outlawing quotas. It says we are outlawing numerical goals. We are outlawing targets. We are outlawing things in the very first stage of the process, the goal-setting stage. If you say our goal is to save the taxpayers $10 million, oh, no, can't do it under the Moran amendment. If you say our goal is to compete 1 percent of the jobs that have already been identified by the agencies as being commercial in nature and we just want to have a competition to see can it best be done in the public sector or can it best be done in the private sector, no, because you said we want to compete 1 percent.

If the Bush administration or its Office of Management and Budget, should they contact an agency and say we want you to try to at least compete 1 percent of the jobs you have, or just one job, under the gentleman from Virginia's amendment, that is illegal. Nobody has any control over the Federal bureaucracy under the gentleman from Virginia's amendment except, of course, the Federal employees labor unions. That is not right.

Let people set goals and have the competition. Let us see who wins the competition. Which is best for the taxpayer in each specific instance: Is it best that this work be done by the public sector or best to be done by the private sector? Do not be afraid of finding out. Vote against the Moran amendment. When in doubt, read the amendment.

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

Mr. MORAN of Virginia. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. ROTHMAN).

Mr. ROTHMAN. Mr. Chairman, let us make no mistake about what this debate is all about. It is about privatization, not about whether we should save taxpayers' money.

Did you know that today, any Federal manager who wants to outsource or privatize any or all of his or her Federal workforce's jobs can do so? Today they can outsource or privatize any or all of their work if they can demonstrate it saves taxpayers' money. So why has the Bush administration and so many of my Republican colleagues said we need a quota where by the end of fiscal year 2003, 85,000 Federal jobs must be privatized when they can do so now if the managers feel it is important and will save taxpayers' money?

□ 1145

Why do they want that privatization quota? Because my friends on the Republican side of the aisle, most of them, and this President, believe in privatization. That is why they still want to privatize Social Security. That is why when we talked about prescription drugs for seniors, Democrats said put it under Medicare where it will be safe and all seniors can get it. My Republican friends said, no, prescription drugs for seniors, give it to private insurance companies to manage. Privatize it, just like the Medigap coverage. They believe in privatization.

They hate big government. That is why they wanted to privatize Social Security, that is why they voted against Medicare when it first came up, and they want to do this now with prescription drugs and these employees.

Support the Moran amendment, and let competition be the rule of the day, not quotas and privatization.

Mr. ISTOOK. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. SESSIONS).

Mr. SESSIONS. Mr. Chairman, you have heard the truth today. This is all about employee labor unions, government labor unions, versus the White House. But there is so much more that needs to be said. We have talked about government efficiency. The fact of the matter is that this United States Congress is going to provide the most money we have ever provided, ever, to the United States Government to perform its tasks and duties that need to be done. The Bush White House believes that government will and should get every dollar it needs, but not a penny more that might go to waste.

What this Bush Administration is asking for is the ability that they have to manage the workforce with the dollars that have been given to them. There are things that happen every day, not just September 11, but disasters across this country. The Bush administration may want to do the right

thing by outsourcing things that might be done to where people can be helped.

The bottom line is this is about whether we are going to stop the Bush Administration from doing those things that are oriented to reform, about whether the Bush administration is not going to be able to manage its resources and assets out of the OMB. It is real simple. I understand it, and I get it.

I think this body should respond by saying we need to give this President the opportunity to not only reform government, but to make sure that efficiency and correctness is done with the efficiency and assets that are given to the government.

George Bush is honest and sincere about taking care of people's problems and needs, but he needs the ability to manage that in a dynamic workplace and in a dynamic country where the needs pop up every day.

If you say all the work only has to be done by government employees, then I think that the American people are missing out. I support what we are doing today to say no to the Moran amendment, because it is wrong and does not help government efficiency.

Mr. MORAN of Virginia. Mr. Chairman, how much time is left?

The CHAIRMAN. The gentleman from Virginia (Mr. MORAN) has 1½ minutes remaining, and the time of the gentleman from Oklahoma (Mr. ISTOOK) has expired.

Mr. ISTOOK. Mr. Chairman, my time has expired? Would you double-check that, please?

The CHAIRMAN. Two minutes was yielded to the gentleman from Texas (Mr. SESSIONS), and that expired all the time for the gentleman from Oklahoma.

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

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

The CHAIRMAN. The gentleman cannot move to strike the last word until the time for debate has expired.

Mr. HOYER. Mr. Chairman, under the rule, I am the ranking member.

The CHAIRMAN. The amendment is pending. There are 1½ minutes remaining for debate under the amendment offered by the gentleman from Virginia (Mr. MORAN), and until that time has been completed, the Member cannot strike the last word.

Mr. MORAN of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. WAXMAN).

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

Mr. WAXMAN. Mr. Chairman, I rise in favor of the Moran amendment. It is an important amendment, and I urge all Members to vote for it.

Mr. Chairman, this amendment is simple. It would prohibit federal agencies from using arbitrary quotas to subject federal employees to either public-private competitions or direct conversions.

This Administration has directed agencies to review for outsourcing 425,000 jobs by the end of 2004. In March 2001, OMB directed all agencies to contract out at least 5 percent of the jobs capable of being outsourced. That's 42,500 jobs. That quota increases to 10 percent in FY 03—another 85,000 jobs.

The use of these quotas has been roundly criticized for their one-size-fits-all approach to improving efficiency in the federal government. Arbitrarily assigning quotas is poor management practice. It demoralizes the workforce and forces reductions where none may be warranted.

These quotas will also encourage agencies to contract out the jobs of federal employees through direct conversions, without the often time-consuming public-private competitions. This unfairly denies Federal employees the opportunity to defend their jobs and denies the taxpayer the benefits of such competition.

I know that Representative TOM DAVIS from the Government Reform Committee agrees with these concerns. At a hearing last year he said he was ''alarmed'' by OMB's use of quotas and that ''No justification for these percentages has been offered to date.''

So this amendment should not be controversial. It would not prevent agencies from competing, converting, or contracting out Federal jobs. However, agencies would no longer be forced to comply with arbitrary quotas.

When debating this issue, we used to hear the argument that we needed to wait for GAO's Commercial Activities Panel to issue its report before prohibiting the use of quotas. Well that report was issued in April and one of its principle recommendations was to ''Avoid arbitrary full-time equivalent or other arbitrary numerical goals.'' It goes on to say that ''the success of government programs should be measured by the results achieved in terms of providing value to the taxpayer, not the size of the in-house or contractor workforce. . . . The use of percentage or numerical targets can be counterproductive.''

OMB has generally endorsed the results of the GAO Panel report. It should endorse the recommendation on quotas. They are generally recognized to be bad management technique and we should eliminate them. I urge members to vote for the Moran amendment.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the point I want to make is that we are not opposing privatization, we are not opposing outsourcing, and the point that the gentleman from Oklahoma was trying to make simply is not consistent at all with this amendment.

We are opposed to arbitrary quotas. They are arbitrary because they apply to every single Federal agency. The Department of Defense is different from the IRS. More than 225,000 jobs in the Department of Defense are supposed to be privatized by the end of 2004. The managers at DOD said that is not going to work. But at the IRS, do we really want to apply the same arbitrary quotas? Do we really want private accounting firms reviewing income tax returns, private collection agencies enforcing income tax receipts? I do not think so.

Every agency is different, and every Federal manager understands their agency. We do not want arbitrary quotas, but we certainly want the best use of the Federal taxpayers' money. It is only managers that can identify what jobs should be privatized by function.

Mr. Chairman, OMB's directive is so burdensome that the result is direct conversion of jobs to the private sector against the wishes of the managers, because the managers know that the only way they are going to get a green light, which is the system that OMB is imposing, is to meet these targets. But they also know they are arbitrary. They know they are not in the best interests of the taxpayer.

The CHAIRMAN. All time has expired on this amendment.

Mr. HOYER. Mr. Chairman, I ask unanimous consent that there be an additional 5 minutes of debate on this amendment, and that that time be equally divided, 2½ minutes to the chairman of the committee and 2½ minutes to the gentleman from Virginia (Mr. MORAN).

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

There was no objection.

The CHAIRMAN. The gentleman from Virginia (Mr. MORAN) is recognized for 2½ minutes.

Mr. MORAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I rise in very strong support of this amendment.

The gentleman from Texas (Mr. SESSIONS) makes a good point. All of us want the government managed so that we save taxpayers' dollars and we effect the ends that this Congress wants effected on behalf of the American people. This is not a partisan amendment. This is not a union amendment, let me say. I want to read you two quotes that I hope Members listen to.

One is from David Walker, the Comptroller General of the United States. By the way, he is not a Democrat, as you probably know. In considering this issue, and the issue is simply whether or not you set numerical, and that is the key, ''numerical,'' that is the word in this amendment, and, yes, I have read the amendment, numerical, because once you set the numerical, then you in effect say either you have to or you in fact have an expectation that you will get to X percentage, irrespective of whether the competition and the analysis shows you save money. Irrespective of that. That is the problem with the policy that the President is pursuing through OMB.

Now, what does the Comptroller General, a Republican, the head of GAO, the head of overlooking efficiency and effectiveness in government, say? ''It is inappropriate to have quantitative targets in the area of competitive sourcing.'' The Comptroller General. He disagrees with your proposition, therefore. He disagrees with the President's proposition. Why? Because it is

not an effective and efficient way to accomplish the objective that all of us share.

Secondly, not a partisan politician, Paul Light, respected overseer of the Brookings Institution view of public employment, says this: ''The Bush administration should show that it means business by imposing a moratorium on its competition initiative which has a,'' listen to this, ''ready-fire-aim quality, and think more systemically about what the Federal Government needs to do its job.''

That is what the Moran amendment says.

Support the Moran amendment. Reject arbitrary and capricious management by numbers.

The CHAIRMAN. The gentleman from Oklahoma (Mr. ISTOOK) is recognized for 2½ minutes.

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

Mr. Chairman, I continue to be amazed by the difference between the rhetoric and the reality. The amendment that we are asked to approve does not outlaw just results, it outlaws the competition. The amendment states you cannot set a goal for what percentage of jobs or how many or what dollar targets. You cannot set a goal for how many jobs you will compete.

We are not talking about a guarantee of the results of the public-private competition. They want to stop the competition from ever happening.

A couple of years ago, Mr. Chairman, we in Oklahoma were so proud that the Oklahoma Sooners had a chance to play for the national championship game in football against Florida State in the Orange Bowl. But under their scenario each side could say, ''You know, we have got the better team,'' but you could never play the game.

They outlaw the competition under this amendment. They say you cannot play the game. So it does not matter what else they may say about it or what else they may include in the amendment. The killer in their amendment is you cannot set a goal for what you are going to subject to competition.

The Bush administration is not setting a goal saying you must transfer so many jobs from the public sector to the private sector. They are saying of the jobs that you have already identified as being commercial in nature, take 15 percent of the jobs that you identified and find out. Have the competition between the public sector and the private sector, but do not outlaw the game from being played.

You cannot set a goal, you cannot set a target, without including a number. They say any goal, any target that has a number in it, is illegal. That is wrong. That undercuts the reforms that this Congress has adopted trying to save the taxpayers money.

The Department of Defense says they are already saving about $1.5 billion each year because they have followed this process. We have the potential for hundreds of millions or billions of dollars of savings to Federal taxpayers by saying, Federal employees, compete against the private sector for activities that are inherently commercial in nature.

Let it happen. Play the game. Find out who is right or wrong. Do not stifle competition. Do not outlaw competition, like the Moran amendment does. Vote no.

Mr. DAVIS of Illinois. Mr. Chairman, I rise in support of the amendment offered by my colleague Mr. MORAN of Virginia, which affords flexibility to Federal agencies in decisions concerning contracting out of government work.

There has been a growing sentiment over the years that government work is inherently inferior to that offered by the private sector—that somehow the private sector has a monopoly on brains, diligence, and professionalism. As a result, there has been a thrust towards establishing across-the-board quotas to privatize more and more of the work traditionally done by the government.

However, these assumptions are flawed. We have certainly learned a lot in the last year. First, there is a core of extremely competent Federal employees dedicated to serving the American public. Second, there is an undercurrent of greed and abuse in the private business world that is not worthy of emulation.

Representative Moran's amendment recognizes that decisions about how best to deliver government services in a quality manner at the lowest cost should depend on unique agency mission requirements, and not on arbitrary across-the-board quotas for privatization. I urge my colleagues to vote in support of this amendment.

Mr. KIND. Mr. Chairman, I rise today to support the Moran-Wolf-Morella amendment that would prohibit the use of arbitrary outsourcing quotas for federal jobs. The Office of Management and Budget (OMB) issued a requirement that every federal agency open up 15 percent of the federal jobs listed on its Federal Activities Inventory Reform (FAIR) Act inventory to outsourcing by the end of FY 2003. OMB has also stated its ultimate desire to establish a final quota to outsource 50 percent of these inventoried positions, roughly a quarter of the entire federal workforce.

This one-size-fits all mandate does not consider the unique need of different agencies and could harm the ability of federal agencies to effectively carry out their mission. Some agencies have more experience with outsourcing than others. At present, the Department of Defense (DOD) is a leader in outsourcing federal jobs. However, the Government Accounting Office (GAO) has found that DOD has had difficulty determining the actual costs of contracting out services and these problems call into question the purported savings incurred.

Currently, I am experiencing this issue first hand in western Wisconsin where the employees at Ft. McCoy lost a contract bid to provide administrative services at the Fort. This decision threatens over 400 jobs. I, along with other members of the Wisconsin delegation, have asked DOD to review the decision to determine if outsourcing, in this instance, is the best way to optimize Ft. McCoy's mission and achieve real savings.

Opponents claim that the Moran-Wolf-Morella amendment would end the contracting out program. This is simply false. The amendment would provide the agencies with the flexibility to outsource as they see fit. It just would prohibit OMB or another agency from using numerical quotas, targets or goals for opening up federal employment jobs to private contractors.

Decisions regarding how to best deliver government services at the lowest cost should be driven by unique agency mission requirements, not arbitrary numerical requirements for privatization. I urge my colleagues to support the Moran-Wolf-Morella amendment.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Virginia (Mr. MORAN).

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

Mr. MORAN of Virginia. Mr. Chairman, I demand a recorded vote.

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

AMENDMENT OFFERED BY MR. HEFLEY

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HEFLEY:

Page 103, after line 10, insert the following new section:

SEC. ____. The amount otherwise provided by this act under the heading ''Allowances and Office Staff for Former Presidents'' is hereby reduced by $339,000.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Colorado (Mr. HEFLEY) and a Member opposed each will control 5 minutes.

Mr. HOYER. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN. The gentleman from Maryland (Mr. HOYER) will control 5 minutes in opposition.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

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

Mr. Chairman, for the first time in our Nation's history, we have five former presidents alive at the same time. We are also in the process of recovering from an economic downturn and all Americans are being asked to tighten their budgets to make ends meet.

□ 1200

That should include all government employees and agencies, even our former Presidents. We should make a strong effort to use cost-effective methods of operating our offices.

The trend of drastically increasing the amount of money we give our former Presidents to operate their offices is a trend that we have the ability to control. We have a situation where former President Clinton's rental expenses will end up costing taxpayers at

least $436,000 next year, whereas the expense of Ford, Carter, Reagan and Bush's offices combined would only cost $528,000.

We are also seeing a drastic increase in miscellaneous services. Former President Clinton received $80,000 for what is called ''other services'' in fiscal year 2002. That is roughly five times the amount that former President Reagan used, six times the amount that former President Bush used, and eight times the amount that former President Ford used in fiscal year 2002.

Now, I am not picking on President Clinton. What I am trying to do here is simply show a trend. After all, there are more Republican former Presidents than there are Democrat former Presidents, and may it always be the case; but there is a trend there.

Many of the allowances for former Presidents are necessary; no question about that. However, numerous costs leave room to be reduced.

I am asking for a reduction in these budgets, as they have seen strong growth in the past few years. I want to take care of our past Presidents, but enough is enough. I am merely asking for a slight reduction in allotting these funds. We cannot continue to increase the allowance at the rate of more than 10 percent every year.

What I am asking for, Mr. Chairman, is that in the time of impending budget deficits, we tighten our belts where we can. What we are talking about is a little over $300,000 worth of reduction here, not a monumental amount as our budgets go; but at least it would reverse this trend of ever increasing these particular accounts.

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

Mr. HOYER. Mr. Chairman, I rise in opposition to the gentleman's amendment, and I yield myself such time as I may consume.

Mr. Chairman, we passed on suspension a bill that passed overwhelmingly that allocated $10 billion. It was subjected to 40 minutes of debate on this floor last night. We voted. There were hardly any votes in opposition.

This issue is so de minimis in terms of its dollars, any dollar is important, I understand that, but that it must be interpreted simply as either symbolic or annoying.

The gentleman from Colorado projects this as a small amount of dollars but, relatively speaking, I will tell my friend, they are a relatively large number of dollars. In fact, they are 41 percent of the discretionary dollars from which this cut would have to be made, almost half.

Now, why do I say that? Because pensions are given, salaries of those currently on board working for President Ford, President Clinton, President Bush, President Carter are not going to be cut, so that the remaining money will simply be cut from the $880,000 for all five Presidents, and Mrs. Johnson, the widow, who gets a very, very small sum and, therefore, the sum that the gentleman suggests, while yes, presumably a smaller sum of the whole, but because so much of the whole is already committed, that which remains, the discretionary dollars from which it is cut, it is a 41 percent cut.

Now, Mr. Chairman, there are more Republican former Presidents, but let me tell my colleagues one that I speak to most frequently, interestingly enough, not a Democrat, but a Republican, for whom I have great respect and unlimited affection, and that is President Gerald Ford, who has used his resources, his position, his experience, his wisdom in a very positive way, as has President Carter, and as have all of the other Presidents. I will tell my colleagues that President Ford believes these kinds of amendments are, in effect, simply scratching former Presidents, as if somehow they are a problem fiscally for the country. Indeed, I look at them as just the opposite: a great resource for this country, that we spend some $3.3 million on, to allow them to be effective in their role, unique role, as former Presidents.

So I would ask my colleagues to review this amendment in the terms of, A, it is a relatively small amount of money in the context of the dollars that we are talking about, even in this relatively small bill, but a significant sum in undermining the ability of former Presidents to travel and, frankly, when they travel on the private sector, my colleagues must understand, they travel at private sector expense, not a public expense, not at taxpayer expense.

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

Mr. HEFLEY. Mr. Chairman I yield myself such time as I may consume.

I think the gentleman from Maryland has a good point, this is a small amount, and it is somewhat symbolic. It is saying, when we are trying to get our budget back in balance, we need to cut wherever we can cut. But even though I would say to the gentleman from Maryland (Mr. HOYER) that it is a small amount, it amounts to all of the taxes, Federal income taxes paid by 60 American taxpayers, average taxpayers. That is a lot of money for them. That is all their taxes.

What we are saying is, for those 60 taxpayers, we are going to use your money in a more effective way. We are going to use it for things that maybe are a little more important.

I tell my colleagues, when we are in this kind of a situation, when we are in great times, we do not seem to worry about it much; but when we are in these kinds of tight times, we really do need to put value judgments on where we spend our money and where we do not spend our money and where we save money wherever we can.

So I would again encourage the adoption of this amendment.

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

Mr. HOYER. Mr. Chairman, I yield 50 seconds to the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Chairman, although I have, frankly, a great amount of sympathy for the amendment offered by the gentleman from Colorado (Mr. HEFLEY) and I think there is a need for us to do something regarding the accounts of former Presidents, I do not believe this amendment is the way to do it, because I believe we need to lay a groundwork and to do whatever we might accomplish through an understanding between the Congress and the offices of the former Presidents.

These accounts were established, of course, back in the years when former Presidents did not have a stipend, did not have very huge speaking fees and other sources of revenue, and played a very different role than they do today. I think there are some things that we can accomplish in having some savings, but I believe that comity between the executive and the legislative branches requires that we try to do that in an orderly fashion and lay a groundwork with former Presidents, rather than try to change the ground rules that we have followed for many years arbitrarily.

So, therefore, despite my sympathy for it, I do urge a ''no'' vote on the amendment by the gentleman from Colorado (Mr. HEFLEY).

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

I would hope that not only the respect for these five former Presidents, unique Americans, but also an understanding of the important role they play in our country, would lead to Members opposing this amendment, and I urge them to do so.

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

I respect our former Presidents, and I think they have a unique role to play; and I want them to play that role, and I want us to provide for them so that they can play that role. But do we really need half a million dollars to support them playing that role each year? Ford, Carter, Reagan, about a half a million dollars, a little more, a little less, about a half a million dollars.

By the way, President Carter, who I have great respect for as a former President, a tremendous former President, I think, he asked for no increase whatsoever this year. President Bush, former President Bush, he is moving up towards three-quarters of a million dollars, and, of course, President Clinton is $1.1, a little over $1.1 million. Do we really need, for instance, in Clinton's case, to spend $436,000 for rent? Do we really need that? Now, he chose New York City. He could have chosen Arkansas, where he is from; but he chose New York City. Do we really need to spend half a million dollars on his rent? Do we need to spend $174,000 for the rent of President Bush in Houston? Mr. Chairman, I question these things. I think this symbolically does send a message that we are trying to get a grip on spending up here. It does not make a great impact on the total budget of the United States Government, but it does send a message.

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

Mr. HEFLEY. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, does the gentleman agree with me that the items he has mentioned and, obviously, they go down the further the President is a past President; does the gentleman agree with me that the dollars he seeks to cut would not and could not be cut from those items?

Mr. HEFLEY. Mr. Chairman, no, I do not.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

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

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

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

AMENDMENT NO. 18 OFFERED BY MR. KUCINICH

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 18 offered by Mr. KUCINICH:

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

SEC. ____. None of the funds provided in this Act shall be used to enforce or implement discounts for the statistical value of a human life estimated during regulatory reviews through implementation of OMB Circular A-94 Guidelines and Discount Rates for Benefit Cost Analysis of Federal Programs or any guidance having the same substance.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Ohio (Mr. KUCINICH) and a Member opposed each will control 2½ minutes.

Mr. ISTOOK. Mr. Chairman, I reserve a point of order.

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

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

Mr. KUCINICH. Mr. Chairman, I would like to offer the Value of Human Life Amendment. I believe that all human lives are equal. Our founders said as much when the Declaration of Independence was drafted: ''All men are created equal.'' Whether young or old, born last year or next year, no one person is worth more money than the other intrinsically. I think that nearly all of my colleagues in the House would agree with me on this point. Unfortunately, the Office of Management and Budget has been acting in a way contrary to this deeply held principle of human equality.

When the Office of Management and Budget goes through a regulatory review, it expects that an agency has completed a cost-benefit analysis. As part of the cost-benefit analysis, sometimes, human lives are included.

For example, the arsenic rule that was accepted by the EPA last year will result in a savings of many human lives that otherwise, if exposed to a higher exposure to arsenic, would have been lost. For the cost-benefit analysis for that rule, all of the lives that would have been saved were added up in dollars at a rate of about $6.1 million per person. In the cost-benefit analysis, EPA included the total figure, in dollars, as part of the total benefits of lowering arsenic levels in the drinking water.

Now, what if, instead of being worth all the same, many lives were valued at a much lower level, say $1.1 million. This is exactly what an outside group, the AEI-Brookings Joint Center for Regulatory Studies did in its study. It did not want to see arsenic levels in drinking water lowered, so it employed the tactic of human discounting. Human discounting is when a discount rate is applied over a time period to reduce the dollar value of the human lives that are saved. So instead of calculating the number of lives saved at the same value, human discounting artificially reduces the dollar value of human lives. By reducing the value, it makes the benefit appear smaller.

AEI-Brookings assumed that the cancers caused by arsenic would not apply for 30 years, so it applied a discount rate over 30 years. Applying these calculations, it estimated the value of a life at $1.1 million instead of the EPA's estimate of $6.1 million.

The impact of using discounting on the value of human life was enormous.

Relying upon the AEI-Brookings study, the Washington Post ran a series criticizing EPA, and the Administration held off on the rule for 8 months, accepting it only after enormous public outcry.

The use of human discounting is a tactic used to distort the benefits of a policy. Instead of having a discussion of saving lives, it allows opponents to reduces lives to dollars, and then reduce the dollar value. Human discounting is literally, a discount on life. It places a reduced value on a human life. Human discounting cheapens life. Human discounting says, a person is not worth as much next year as he is today, and the dollar value or his or her head is less next year than it is today.

For tangible objects, like buildings or machines, the concept of discounting makes sense. We employ depreciation rates all the time. Capital things depreciate, and that can be reasonably measured. But is it just to or even reasonable to employ depreciation rates for people? Congress has never allowed it before.

Since 1992, when the OMB presented Circular A–94 that specifically advised agencies to use a 7 percent discount rate, it has continued to issue guidance and communications to agencies to apply this discount rate to human lives. However, there is no statute that Congress has passed that tells agencies to sue a discount on human lives. There is no statute that even permits it. Yet OMB has advised agencies that discounts should be applied to human lives when cost-benefit analyses are completed.

Ending human discounting is the ethical thing to do by refusing to put different dollar values on different people. If OMB advises agencies to discriminate between different ages of people, what is to stop it from putting different values on people based on income, race or gender?

I urge OMB and other agencies to stop this practice and use the same value for all human lives.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KUCINICH) has expired.

Mr. ISTOOK. Mr. Chairman, before taking time or pressing a point of order, I would ask the gentleman if he would be willing to withdraw his amendment.

The CHAIRMAN. Let me just state that each Member was recognized for 2½ minutes, a total of 5 minutes debate under the unanimous consent agreement on this amendment.

Mr. ISTOOK. Mr. Chairman, rather than my consuming the time and pressing the point of order, I would inquire of the gentleman from Ohio if he is willing to withdraw his amendment.

Mr. KUCINICH. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

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

There was no objection.

□ 1215

AMENDMENT NO. 16 OFFERED BY MR. HEFLEY

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. HEFLEY:

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

SEC. . Each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1 percent.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Colorado (Mr. HEFLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

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

Mr. Chairman, I am asking we make a 1 percent reduction in our spending for the Treasury and Postal Services appropriations. With a discretionary budget of roughly $18.5 million, a 1 percent reduction with amount to $185 million, which is a lot of money to most of us but not a lot compared to the overall budget. When dealing with these billions and billions of dollars of spending, this is a figure that the agencies can easily work around.

I am not criticizing, Mr. Chairman, the work of the committee. I know the dynamics of getting a bill through the committee and getting it to the floor, and I think they have done a good job on this bill. But the last estimate for

this year's budget deficit would amount to roughly $150 billion dollars.

In order to balance this budget, Mr. Chairman, I am asking that every agency make a minor decrease in its rate of spending. I am not asking for any agency to take a big cut. I am requesting that they reduce their spending. If every agency complies with this request, we can actually come close to offering a balanced budget this year. We would the excuse that. We are at war and we are at a time of economic downturn. And, by gosh, that is a good excuse. It is not only an excuse, it is a reason. And if we want a reason to not balance the budget this year, we have got reasons for not balancing the budget this year. But I think we need to adopt the philosophy that if we do not have it, we do not spend it. We tighten our belts and we figure a way to maintain that balanced budget.

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

Mr. ISTOOK. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Oklahoma is recognized for 5 minutes.

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

Despite my great sympathy for the amendment offered by the gentleman from Colorado (Mr. HEFLEY), I cannot support it. This particular bill, were it subjected to across-the-board cuts, would find that we have significant cuts and reduction in homeland security efforts which are the major focus of the bill.

We have already identified in the subcommittee and the committee several places where we have applied significant cuts, for example, the Bureau of Public Debt, some $23 million. Bureaucracy within the Office of Narcotics and Dangerous Drugs in excess of $10 million. The First Accounts Program with the Treasury Department, approximately $6 million say from what we had last year and yet improve the program, I believe. These are certain examples and there will be others.

We have what we have done, Mr. Chairman, in this bill is to try to accomplish savings every place we can and plow those into the front lines of homeland security. Border security, in particular with the Customs Service, where we have significant increases in the air and marine program, the investment and information technology, in the research and developments to use better levels of technology to secure our borders, the Container Security Initiative, trying to protect us from having something brought in within the $8 billion daily of commodities that come into the country as part of the international trade. I do not think we could accomplish an across-the-board cut without jeopardizing those.

I do agree with the gentleman about the need for significant cuts overall in Federal spending. Unfortunately, because of the extreme needs of homeland security and national defense and the as yet unwillingness of people to make some sacrifices in some other places in the government, I do not think it is a practical amendment at least certainly not in this particular bill. I do want to work with the gentleman and everyone else in this body to try to identify more specific cuts that can be made in all of our bills, but I cannot support this particular amendment.

Mr. Chairman, I yield the balance of my time to the ranking member, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I rise in opposition to this amendment. A one percent across-the-board cut, small number.

First of all, let me say to the gentleman something he did not say, the committee has already adopted the President's administrative cuts of $50 million across the agencies with the exception of the law enforcement agencies, with the exception of the law enforcement agencies because as the gentleman has pointed out, we are confronting terrorism here at home and around the world.

But let me speak to the larger question that the gentleman, I think, probably does not know, and too many of our Members do not know this fact, the public probably does not know this fact either.

In 1962, 40 years ago, this country spent 3.4 percent of its gross domestic products on domestic discretionary spending. That is what this is all about, spending on the Treasury Department, GSA building, the President's salary, expenses that we are talking about, 3.4 percent. The last year for which we have record, we are in 2002, for 2001, I tell the gentleman, notwithstanding all the rhetoric about exploding expenses, we spent 3.4 percent of GDP on domestic discretionary spending.

Only one year I tell my friend, from 1981 through 1993, the presidencies of Ronald Reagan and George Bush, only one of those years did we spend as little as 3.4 percent of GDP. All the rest of the years were either in the 3.5's or above or in the 4 percent of GDP.

So I tell my friend, the Committee on Appropriations, which all the authorizers think is spending money willy nilly, is spending less money today as a percentage of GDP than we did in the Reagan and Bush years. So the belt has been tightened. That is important that the public understand that.

I speak in strong opposition to this bill. It is so easy to come to the floor and say do 1 percent across-the-boards, or 2 percent or 5 percent or 10 percent. That is easy. What is tough is to come to this floor and say cut X or Y or Z because it is not as effective and efficient.

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

Mr. Chairman, the gentleman from Idaho (Mr. OTTER) is not here, so I guess I will go ahead and close. I do not want to hold things up.

Both the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Maryland (Mr. HOYER) mentioned the law enforcement portions of this thing. I am not going into any accounts and picking out and saying cut that except for the presidential thing that I did earlier. You have to make choices. If law enforcement is the important thing now, we need to put the emphasis on law enforcement.

I think the gentleman from Maryland (Mr. HOYER) had very good figures there about the percentage we were spending before and now, the point is we have had a history of spending far, far too much money at the Federal level over the years, and we continue this history. Now, we have tightened our belts.

I have listened to the gentleman from Maryland (Mr. HOYER) but I have to close this thing out. We have spent too much money traditionally. It is the habit here and as I said in my statement, I am not criticizing the committee for their work.

By golly, the gentlemen here do a good job on this committee. They do the best they can. I understand too it is very tough to get a bill with any cuts out of it out of committee because everybody has something they are particularly interested in. Everybody has at least one thing that is the most important thing in their life, and in committee those dynamics work. On the floor, it may be those dynamics do not work as well. It might be easier for us to pass something like this on the floor than it is in committee.

Mr. Chairman, I yield to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I understand the gentleman's point. The point I was going to make is when the gentleman says we spend too much money, I agree with him. I am one of Democrats that voted on the balanced budget amendment. I agree that we need to live within our means. The point I want to make to my friends who are not on the Committee on Appropriations, is this is an OMB figure I read, it is not because we are spending more discretionary dollars. That is what we focus on because those are the bills on the floor.

In the tax bills, it is not entitlement bills, et cetera, et cetera, where we are spending the real money and when we look at those figures, that is where the additional expenditures are occurring that the gentleman is concerned about, not in the appropriations process.

I know it is difficult for Members who only get a chance to make their point only when we come to the appropriations process. So it is frustrating to say this is not the problem, but this is not the problem.

Mr. HEFLEY. Reclaiming my time, I will say to the gentleman, we have to try to save the money wherever we can save it, and there is where we have a chance to save it.

Mr. OTTER. Mr. Chairman, I rise today in strong support of the amendment offered by

my friend and colleague from Colorado, Mr. HEFLEY. Our simple amendment is a sensible response to the more than $109 billion deficit we will run next year. Reducing spending by one percent in the bill, we lower that number by $185 million and speed the return of balanced budgets.

This amendment does not defund critical programs, but rather encourages federal bureaucrats to become more efficient. Asking federal agencies to get by with 99 cents on the dollar is fair when the American people will be stuck with more than $100 billion of debt to burden their children. Every family cuts back on expenditure when their budget is cut. If federal bureaucrats cannot do the same then they do not deserve the tax dollars of those families.

This bill, as written, is $537 million over the President's request and more than 8 percent higher than last year. Passing the Hefley/Otter Amendment will still leave this bill more than 6.9 percent larger than last years bill and $352 million above the President's request. I appreciate the efforts of Chairman ISTOOK and the entire Appropriations Committee in crafting this bill. They have worked diligently and responsibly under difficult circumstances. I urge them to join with me in supporting this Amendment.

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

The CHAIRMAN. The question is on amendment offered by the gentleman from Colorado (Mr. HEFLEY).

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

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

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

AMENDMENT NO. 12 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Ms. JACKSON-LEE of Texas:

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 prevent the rehabilitation of urban and rural post offices.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentlewoman from Texas (Ms. JACKSON-LEE) will be recognized for 2½ minutes, and a Member opposed to the amendment will be recognized for 2½ minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, 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. Chairman, so many of us come to this floor with frustrations that we would hope that our colleagues would join us in fixing.

This amendment deals with the urban and rural post offices so many of us have in our respective districts that go unattended, with dilapidated leaking roofs, and not lighted. This amendment in particular deals with that concept of not preventing resources to be used for fixing those post offices that so many of us use.

Mr. Chairman, I would like to be able to enter into a colloquy on this issue with the distinguished ranking member and the distinguished chairman of this committee. They brought forth an excellent bill, but I have a problem and so many of us have a problem. Mine in particular deals with the Jensen Drive Postal Station in my district where, so many times, I have been promised that it would be repaired for the seniors who use it. First go to Washington, then go back to Houston.

I am concerned that the U.S. Postal Service is not doing enough to improve this facility to serve its customers better. Right now it has only 8 available parking slots of which one is for disabled parking and only 2 are for senior citizens. This is an area dominated by senior citizen residents. This causes traffic jams and creates an unsafe environment.

As this bill moves forward, I would ask the chairman and ranking member, who work so good together, to consider the inclusion of report language that would encourage the Postal Service to work with local officials and community leaders so the need of its facility and its customers are addressed, particularly our elderly and disabled.

Mr. ISTOOK. Mr. Chairman, will the gentlewoman yield?

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

Mr. ISTOOK. Mr. Chairman, I am pleased to engage in a colloquy with the gentlewoman, and I would be pleased to work with her to address this issue with report language as we go to conference on this bill.

Ms. JACKSON-LEE of Texas. Reclaiming my time, I thank the gentleman for yielding and for his commitment.

Mr. HOYER. Mr. Chairman, will the gentlewoman yield?

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

Mr. HOYER. I thank the gentlewoman for raising this issue. She has talked to me and I know she has talked to the chairman. She has been working tirelessly on this issue and has great concern about it. I would be happy to work with her and the Postal Service to address the facilities need of the Jensen Drive Postal Station in Houston.

As the gentlewoman knows, the committee is very concerned with the financial system the Postal Service is in. As the Postal Service continues to address their fiscal deficits, they should not lose sight of the local communities that they serve. That is the gentlewoman's point. She is absolutely right on that point. Her concerns for those with disabilities and the elderly in accessing the Postal Service is absolutely essential.

To that end, I think the gentlewoman will be successful in her efforts working with us.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

AMENDMENT NO. 2 OFFERED BY MR. FLAKE

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. FLAKE:

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.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Arizona (Mr. FLAKE) will be recognized for 2½ minutes and a Member opposed will be recognized for 2½ minutes.

Mr. ISTOOK. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. FLAKE).

□ 1230

Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume. We just had a discussion about our ability to rein in spending by the Federal Government. The gentleman from Colorado (Mr. HEFLEY) is exactly right. We ought to save money where we can. We all know that entitlements are running out of control. There are other things that spend money, but we do have control over appropriation bills and discretionary spending that comes to this floor. The problem is we have far too little control. Those of us who do not serve on the Committee on Appropriations are forced to look at only the bill language when we amend on the floor. All we have is the bill. We can only amend what is in the bill. The problem is the bill here in this case for this bill that we are looking at is 103 pages. The committee report, on the other hand, is 135 pages. The bill contains what are called hard marks or directions for spending money. The committee report contains soft marks. We do not have any control. We cannot get at the soft marks here on the floor. Ordinary Members of Congress cannot go

in and cut out pork barrel spending because most of the pork barrel spending happens and is directed within the conference report.

When I brought this amendment on the last appropriation bill we did, I was ruled out of order because we cannot legislate on appropriation bills. My amendment would assume that those who spend the money in Federal agencies actually read our bills. Apparently we do not assume that. They are not directed to. But we know they do because in every case when they spend money they spend the soft marks. If they do not, they are punished the next year by the Committee on Appropriations.

All my amendment says is that unless it is appropriated in a bill, not in a report, in a bill that Members have the ability to amend, then Federal agencies cannot spend it. That is not unreasonable. It is not saying that we not have earmarks. The House, the Congress, has a prerogative to earmark. It simply is saying do it in a bill where we have sunlight, where everybody can see it, we are where we have an open process, not hidden away in some committee language or conference language or a report that nobody can get at. So I think that is a reasonable request. However, I realize that I will be ruled out of order again. I will commit to work on the language to make sure that we can get around the problem.

Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

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

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT NO. 7 OFFERED BY MR. SANDERS

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. SANDERS:

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.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, the gentleman from Vermont (Mr. SANDERS) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

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

This tripartisan amendment is cosponsored by the gentleman from Minnesota (Mr. GUTKNECHT), the gentleman from New York (Mr. HINCHEY), and the gentleman from California (Mr. GEORGE MILLER). This amendment has the strong support of the AARP, the largest senior citizen group in America, and the 13 million members of the AFL–CIO. It has the support of the Pension Rights Center and many other groups.

Mr. Chairman, this amendment is about corporate accountability. Today corporation after corporation has been caught misleading their investors. Many of these same companies are doing exactly the same thing with respect to employees' pensions. Mr. Chairman, enough is enough.

This amendment addresses two issues. First it tells companies they must stop discriminating against workers based on age by shifting to the so-called cash balance scheme. Secondly, it tells companies that they must not cheat their employees out of their hard-earned pension benefits. Specifically this amendment would prohibit the Internal Revenue Service from using any funds for activities that violate current pension age discrimination laws, laws that have been on the books since 1986. A similar amendment was passed by voice vote during the consideration of the Fiscal Year 2001 Treasury Postal Appropriations bill but was stripped from the conference report.

Mr. Chairman, age discrimination in general and age discrimination with regard to pensions is unacceptable and must not be allowed to happen. Unfortunately, hundreds of profitable companies across the country, including IBM, AT&T, CBS, and Bell Atlantic, have converted their traditional defined benefit pension plans to the controversial cash balance approach. Cash balance schemes typically reduce the future pension benefits of older workers by as much as 50 percent. Not only is this immoral, it is also illegal because reductions in benefits are directly tied to an employee's age which is in violation of Federal age discrimination law.

What makes these conversions even more indefensible is the fact that many of the companies that make these conversions have pension fund surpluses in the billions of dollars. It is simply unacceptable that during the time of large corporate profits, pension fund surpluses, massive compensation for CEOs including, by the way, very generous retirement benefits, that corporate America reneges on the commitments they have made to workers by slashing their benefits and their pensions.

Mr. Chairman, Congress must stand with older workers and insist that anti-age discrimination statutes are enforced.

Mr. Chairman, let me quote from the letter from the AARP written to me. ''AARP believes that cash balance plans violate current law prohibitions on age discrimination. We commend you,'' me, ''for offering this timely and important amendment. AARP hopes that this amendment will send a strong message that we value older workers and that we reaffirm that older workers should not be subject to age discrimination in their pension plans.'' End of quote from the letter that AARP wrote to me.

In addition, the Pension Rights Center writes in a letter to me, and I quote, ''The Center has long been concerned that cash balance conversions have deprived older workers of their hard-earned expected pension benefits. The Center has joined labor and retiree organizations in taking the position that cash balance conversions should be stopped because they violate age discrimination laws and deprive older employees of expected future benefits that they counted on earning in their traditional defined benefit plans. As a public policy matter, cash balance conversions rank high among abusive practices that corporations have instituted to surreptitiously cut employees' benefits. It is noteworthy that before the current calamities that befell Enron and WorldCom, both companies had converted their secure defined benefit plan to cash balance plans for the purpose of reducing their older employees' benefits and increasing the corporate balance sheet. Both companies then purported to ''improve'' the 401(k) plan only to lure employees into investing into employer stock that soon became worthless.'' Letter from the Pension Rights Center.

Mr. Chairman, through my involvement with the IBM cash balance conversion, I have heard from hundreds of workers throughout the country who have expressed their anger, their disappointment, and feelings of betrayal by cash balance conversions. These are employees who had often stuck with their company when times were tough, these were employees who had often stayed at their jobs precisely because of the pension program that the company offered, and these are the same employees who woke up one day to discover that all of the promises that their companies made to them were not worth the paper they were written on.

Mr. Chairman, this is not acceptable. We must provide protections for these workers who have been screaming out to Congress for help. We must pass this amendment. Large multinational corporations with defined benefit pension plans receive $100 billion a year in tax breaks alone, according to the Office of Management and Budget. Mr. Chairman, the IRS should not be giving tax breaks to companies that willfully violate the pension age discrimination statutes. To do so not only violates public law and policy, it also provides taxpayer subsidies for illegal pension conversions.

Mr. Chairman, there should be no tax breaks for companies that discriminate on the basis of age.

This amendment also has another very important component designed to

protect the pension benefits of American workers. This amendment would also prohibit any funding to the IRS to dilute the requirements of current law as articulated by IRS Notice 96–8. This notice simply tells companies what interest rate to use when calculating their employees' pension benefits. This notice has been upheld by two U.S. Court of Appeals and is vitally important to protecting American workers who have seen their pensions slashed as a result of cash balance conversions.

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

Mr. SAM JOHNSON of Texas. Mr. Chairman, I would like to claim the time in opposition.

The CHAIRMAN. The gentleman from Texas is recognized for 15 minutes.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

I rise in opposition to the amendment offered by the gentleman from Vermont (Mr. SANDERS) and I rise as chairman of the Subcommittee on Employer/Employee Relations which has jurisdiction over ERISA, and a member of the Committee on Education and the Workforce with jurisdiction over age discrimination issues. I am also a member of the Committee on Ways and Means which also has jurisdiction on pension issues.

Despite some assertion made recently by the gentleman from Vermont (Mr. SANDERS) as ranking member of the Subcommittee on International Monetary Policy and Trade, he has no jurisdiction over any pension issues.

Congress should be in the business of encouraging, not discouraging, employer-sponsored pension plans. Currently less than half of the Americans who work in the private sector are covered by a retirement plan. The reason for this anemic number is that we have so overregulated these plans that many employers simply decide not to offer this important employee benefit.

The decline in the defined benefit pension plans has been particularly shocking. Earlier this year the Committee on Ways and Means held a hearing on defined benefit pension plans and we heard testimony on the decline of these plans that provide retirees guaranteed income for life. The number of defined benefit pension plans peaked in 1985 at 114,000 plans. In 2001 the number of these plans had fallen to 35,000, a staggering decline of almost 70 percent. The reason for this drop is that these plans were wrapped in so much red tape that employers chose to stop offering this benefit to their employees.

One type of defined benefit pension plan that provides some glimmer of hope that we will not see these plans become extinct is cash balance pension plans. The accrued benefits in these plans are guaranteed not to be reduced, a deal that many of us wish we could find for our shrinking 401(k) and TSP balances. I think that it is important that we maintain the employer's ability to do these things. The employer makes contributions and the employer bears the risk of market reductions, not the employee.

Finally, the United States Government insures cash balance plans through the Pension Benefit Guarantee Corporation in the event that the employer goes bankrupt. These traits are enough of an incentive to businesses that some have begun to offer cash balance defined benefit plans. However, the Sanders amendment would put an end to businesses implementing new cash balance plans. The amendment would prohibit any new guidance being issued by Treasury or the IRS regarding cash balance plans. The sponsors of this amendment claim that it is meant only to prevent the IRS from changing its position on a notice and to prevent them from violating age discrimination law. In reality the amendment attempts to establish new pension rules and is fully within the jurisdiction of the House Committee on Education and the Workforce and the House Committee on Ways and Means. The Department of Treasury is now in the process of issuing new cash balance regulations, some of which we mandated in a bill last year that passed with overwhelming support. Yet this amendment would undercut those regulations. This is not a shoot-from-the-hip type of an issue. It needs to go through a committee of jurisdiction and I urge a no vote on this amendment.

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

Mr. SANDERS. Mr. Chairman, how much time is remaining, please?

The CHAIRMAN. The gentleman from Vermont (Mr. SANDERS) has 8 minutes remaining. The gentleman from Texas (Mr. SAM JOHNSON) has 11 minutes remaining.

Mr. SANDERS. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. GEORGE MILLER), ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman from Vermont for yielding me this time, and I thank him for bringing this amendment.

This amendment just addresses a very fundamental question: When will the corporations of America stop raiding the pensions of their workers? If one listens to the gentleman from Texas (Mr. SAM JOHNSON), the suggestion is that corporations will only go to a defined benefit plan or they will only go to a cash balance plan if they think they can continue to raid the cash balance of the pension plan. What they promise their workers they will give them is different than what they will give them. And how do they do that? Because they are down working with the Department of Labor, with the Department of Treasury trying to concoct a means by which they can have unrealistic assumptions about the rates of return and then use that to gyp the workers out of their money.

□ 1245

This is not just the gentleman from Vermont (Mr. SANDERS) who says this; this is not just me who says this. This is what the Inspector General found as they have audited these plans. We find out that the workers are underpaid.

Now, we have been through Enron, we have been through Dynergy, we have been through Merck, and we have been through one scandal after another. What is interesting is that these are many of the same companies that not only killed their workers' 401(k) plans, but now they are also in the process of looting the cash balance plans.

So the question is: Is this Congress going to put a stop to it? Is it going to tell the Treasury Department that they should be able to do as they have been doing and making realistic assumptions about rates of return on these plans, or are they going to engage in some kind of fiction and cooking of the books with the very corporations that have destroyed families across this country?

This is a moment of truth for the Congress. Because the Treasury and the IRS have been doing it one way, it has been upheld in court, it is determined to be fair to the workers, it is determined to return to them the value of the cash out of their pension plan; and now, in come the companies. In come the companies, who have destroyed the stock market, who have destroyed confidence in the American investment system, who have destroyed these people's lives, and now they want us to become their partner in depriving people of tens of millions of dollars that they are owed, that they worked for, and that they were promised.

Now maybe promising somebody something and keeping the promise was old-fashioned in the 1990s, but I have a sneaking suspicion that it is coming back into vogue; that it is going to be a basic value. These companies promised these workers this pension for the work that they did; and when they changed plans, they promised them that they would have a balance; that it was the equivalent of the cash balance of that. Now they want to cook the books.

The question for this Congress is: Are we going to be part of that? The Sanders amendment gives us an opportunity to say no; to say no to age discrimination and to say no to having this Congress and the Treasury Department and the Labor Department be partners in cooking the books. We must pass the Sanders amendment.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

The complexity of cash balance plans has been the subject of study of both the Clinton and Bush administrations, and there is no Federal agency in any administration that found that cash

balance plans discriminate on the basis of age.

By its own admission, the Internal Revenue Service is trying to clarify some of the ambiguities under its own notice 96–8. The passage of this amendment, in our view, would prevent the IRS from modifying 96–8, a circumstance which could cause significant harm to many workers.

So I would say that this amendment simply bars the administration, which started under Clinton and now continues under Bush, from trying to fix some of the problems that occur with our pension system.

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

Mr. SANDERS. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, I want to thank the gentleman for yielding me this time, and I rise in support of the Sanders amendment.

Mr. Chairman, I agree with some of the things the gentleman from Texas just said, and, that is, that the IRS has been studying this thing for about 5 years, 5 years, and during that time millions of Americans have seen their pensions change and the amount of money they expected to receive dramatically changed while the IRS has studied this.

This amendment is pretty straightforward. It just says it is time for the IRS to get off the dime and come to a clear conclusion, the conclusion that I think anyone who studies this issue objectively for more than 10 minutes will come to, and, that is, for older workers, when they convert from a defined benefit plan to a cash balance plan, the older workers lose. That is a fact.

Now, I am not on any of the committees of jurisdiction. I am not on the Committee on Ways and Means; but I did serve on the pension commission back in the State legislature, and I do come from a part of the country where a deal is a deal and a bargain is a bargain. And what happened many years ago, the Congress made a bargain with large employers. We called it ERISA. And the bargain was this: if you take good care of your workers, we will protect you from legislation in the 50 States. You will only have to deal with one set of regulations.

Now, my colleagues, we never broke that bargain; but major corporations have. They have changed the bargain on pensions. And when they make these conversions, the truth of the matter is a lot of that money is freed up and can be transferred to other parts of that company's budget. Now, you may not want to call it raiding the pension funds, but that has been the net practical effect, and millions of workers have lost.

This is a straightforward amendment. It makes sense. It sends a clear signal to the IRS that it is time to get off the dime and make it clear that when they make these conversions, older workers lose. That is wrong, and it is time for Congress to do something about it.

Mr. SAM JOHNSON of Texas. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from Texas has 10 minutes remaining.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. HOUGHTON), a member of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank the gentleman from Vermont.

I happen to feel, and I have been around this pension business a long time, that the Sanders amendment is going to unfairly tie the hands of the Treasury Department. Now, that is not important to some people, but it is to the general public.

When it comes to writing new rules and issuing determination letters for defined benefit pension plans, the history is this: the Treasury and IRS issued a proposed ruling in 1996, and of course this is now in need of updating and improvement. The Sanders amendment, and I can understand where the gentleman from Vermont is coming from, but it really, I think, could have damaging effects if adopted.

The cash balance pension conversions have already been thoroughly addressed by this body right on this floor. A number of hearings in the 105th and 106th Congresses were held by the relevant committees of jurisdiction; and Congress included in the 2001 tax law a provision expanding the disclosure, the disclosure obligations of employers when they convert to a cash balance defined benefit plan. Congress concluded at that time that enhanced disclosure was the proper response to the issue surrounding cash balance conversions, not stopping action by the IRS to revise guidance on the proposed rules.

The Federal agencies, such as the IRS and the Treasury, responsible for jurisdiction over the pension age issues, are currently engaged in a thorough review of these age discrimination questions. The Subcommittee on Oversight of the Committee on Ways and Means, which I am a member of, held a hearing last month on defined benefit plans; and we would have the jurisdiction over any changes to the existing law. Unfortunately, this amendment that we are looking at today cuts into the legislative jurisdiction of the Committee on Ways and Means and also the work which it is trying to do.

So, Mr. Chairman, I really feel that this is an unfortunate amendment at this particular time, and I would hope people would oppose it.

Mr. SANDERS. Mr. Chairman, could I inquire about the time for both sides, please?

The CHAIRMAN. The gentleman from Vermont (Mr. SANDERS) has 3 minutes remaining, and the gentleman from Texas (Mr. SAM JOHNSON) has 7½ minutes remaining.

Mr. SANDERS. Mr. Chairman, I am proud to yield 1½ minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, beginning in 1995, this Congress began a process of reducing regulations and freeing up the activities of corporations across America. They also, during the beginning of that period of time, weakened the IRS. The result of that is the kind of corporate scandals, the kind of corporate crime wave we see sweeping across the country today.

One of the less noticed aspects of that corporate crime wave includes the way in which corporations have been robbing the pension systems of American workers. They have been doing that by shifting from a so-called defined benefit program, where the benefits are clear and well stated, to a cash balance program, which enables them to manipulate the pension program and, in fact, provide lesser benefits to the employees, to the workers, over periods of time as they retire.

That has got to stop. The only way it can be stopped is by requiring the IRS, which has been weakened by the leadership of this House, to step forward and enforce the laws as they were intended to be enforced. That is what this amendment would do. It would require the IRS to enforce the laws, and it would stop the pension abuse that is going on by corporations across this country that are costing American workers and their families hundreds of millions of dollars.

We have the obligation and the responsibility to stop it. The only way we can stop it is by passing this amendment. Therefore, I hope and trust that the majority of the people in this House will step forward and recognize their responsibilities and pass this amendment.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman for yielding me this time, and let me rise today in opposition to the amendment offered by the gentleman from Vermont (Mr. SANDERS) and others that really would be a back-door attempt at making substantive changes to our pension law.

The fact is that this issue has been debated in the Portman-Cardin bills from 1998, 1999, 2000, and 2001. We also dealt with it in the Pension Reform Act we had on the floor of this House this past spring. In every case, the Congress has decided not to discourage the conversion to cash balance plans.

Now, cash balance plans are a hybrid between traditional defined benefit plans and defined contribution plans like 401(k) plans. Companies that have traditional defined benefit plans were under pressure, under pressure from younger workers, who felt that they were not getting the benefit of their pension benefits until they had stayed

there for 20 or 30 years. These conversions to cash balance plans, these hybrids, are in the best interest of all employees of these companies.

Now, we should all know that there have been over 500 conversions from defined benefit plans to cash balance plans. In almost every single case, companies made all employees whole. Now, there is a case, and maybe a case and a half, where companies early on did not do this. And the gentleman who is the sponsor of the amendment, and his colleagues who are sponsoring amendments, all happen to represent various facilities of the one company who did not do a very good job in their conversion.

We do not want to make this huge change in pension laws on an appropriation bill. It is not the right venue. The gentleman, I am sure, is well aware of that. On top of that, the policy that is being proposed here is not the right policy for the interest of American workers.

Younger workers want to be able to see what kind of pension benefits they have accumulated. Cash balance plans are a way for traditional companies with defined benefit plans to in fact do that.

I think this is unwise. We should not go down this path today, and I would urge my colleagues to reject the amendment offered by the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman from Vermont for yielding me this time.

Mr. Chairman, the previous speaker made an indication that many companies have switched over or converted to cash balance plans and employees have been made whole. That simply is not the fact. It is not what is happening. A large number of older Americans, people 40 years and older, have in fact lost up to 50 percent of the value of their plans.

This is not some substantive change in the law that is being asked for here. The gentleman from Vermont, much to his credit, has come forward and said we will just make sure that the IRS is not adding insult to injury, and that in fact, when people stand that risk of having their pension that they worked long and hard to secure taken away from them by a conversion, the IRS will not allow any monies to go to doing that. They will in fact have to enforce the law.

□ 1300

The law says we cannot discriminate in such situations. The Inspector General at the Department of Labor has found out that discrimination is going on when you shift to a cash balance plan. Over 20 percent of the 60 plans that were audited resulted in those employees not getting what they were entitled to. If we extrapolate that number out, we find out the damage is $185 million to $190 million annually.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from North Dakota (Mr. POMEROY), a member of the Committee on Ways and Means.

Mr. POMEROY. Mr. Chairman, I want to begin by congratulating the sponsors of this amendment for their tireless efforts, in particular on behalf of employees in their particular districts affected by a poorly executed conversion and their efforts thereafter to make sure that the concern realized in that particular instance is not realized again.

I also congratulate them for advancing this amendment because I believe it calls attention to a very important issue of pension conversion and our great concern that people be treated fairly and there not be age discrimination as their conversions move forward.

Having said that, I respectfully disagree with this amendment on this appropriations bill. This is a very substantive alteration of ERISA law. It is technical, it is complex, and there could be unintended consequences. The consequence I am most worried about is, rather than the conversion from defined benefit to cash balance, we are going to have something even more dramatic and disadvantageous to the employee, movement to defined contribution plans or gradual elimination of the pension benefit altogether.

We operate in an environment where employers are not mandated to provide these benefits, and 50 percent of the people in the workforce today have no at-work savings. Therefore, as we try to address these concerns, if we smack employers with perceived additional costs, we absolutely stop the efforts to get additional employers to offer retirement savings plans, and I believe we accelerate the conversion from defined benefit to defined contribution plans.

Reasonable minds may differ on this, and I do not question for one instance the absolute sincerity in the purpose behind this amendment. I just think strategically that this is not the way to go at this time. I think the fact that the amendment has been offered and is debated sends a very clear signal to the Department of Treasury that this is not the time for them to be altering that rule.

I think on the other hand their administrative processes should move forward, the committees of jurisdiction should carefully watch over those processes, and particularly interested Members of Congress should also watch this process; and if we, indeed, see the rule being altered in a way that has a discriminatory effect on elderly workers, we ought to act at that time.

But to react now changing ERISA by an amendment on an appropriations bill without a hearing, without careful deliberation about the full range of what the consequences might be, this is reckless stuff on very important business. There is not a worker in the workplace today with a retirement savings plan that is not darn scared about what is happening in the stock market and their security of income and retirement. We should not compound the confusion, the anxiety, or raise other questions by passing this amendment at this time.

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

Mr. Chairman, the American people are outraged at the degree to which corporate America has ripped off investors and workers, and millions of American employees are equally outraged at the degree to which corporate America has ripped off their pension plans.

Let us pass this amendment. Let us join with the AARP, let us join with the AFL–CIO, let us join with the Pension Center and say ''yes'' to American workers that they deserve what they have been promised.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, both the Department of Labor and the Treasury Department are trying to examine the regulations and their effect on cash balance plans.

The recent DOL Inspector General's report indicates there is confusion on the part of employers as to the rules to be applied to distributions from cash balance plans. The two Departments need time to develop rules that are both understandable to employers and not harmful to workers' benefits under these plans.

Congress must not impede the normal regulatory process of the agencies by removing the flexibility they presently enjoy to craft rules in the pension area. The Congress should be trying to encourage the growth of employer-sponsored pension plans; and passage of the Sanders amendment will have a chilling effect on cash balance plans. The Federal Government should promote policies that will encourage employers, particularly small businesses, to sponsor pension plans. As the baby boomers age, we need increased pension plan coverage. Passage of this amendment will impede that growth. I recommend a vote against this amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

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

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

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

AMENDMENT NO. 23 OFFERED BY MR. BARR OF GEORGIA

Mr. BARR of Georgia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 23 offered by Mr. BARR of Georgia:

Insert at the end before the short title the following:

SEC. . None of the funds made available in this Act under the heading ''Special Forfeiture Fund (Including transfer of funds)'' to support a national media campaign shall be used to pay any amount pursuant to contract number N00600-02-C-0123.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Georgia (Mr. BARR) and the gentleman from Maryland (Mr. HOYER) each will control 10 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a very simple amendment. It is just as important for what it does not do as for what it does. This amendment, goes to an issue regarding funding for the antidrug media campaign, which is a very important part of our government's overall antidrug message, and whether or not that program shall continue to be administered by outside companies benefiting greatly, to the tune of hundreds of millions of dollars of taxpayers' money, should be limited to companies with a good, honorable, upstanding, noncorruptable track record in dealing with the government.

There is one company in particular which has benefited greatly from taxpayer dollars in putting together the ads and buying the ad time for the media antidrug campaign, and that is Ogilvy & Mather Corporation. This company has already entered into a civil settlement with the government well in excess of $1 million, almost $2 million, for fraud in connection with overbilling and other fraudulent contracting practices. The company is reportedly still under investigation by the Department of Justice, that is the FBI and the U.S. Attorney's Office for the Southern District of New York.

Insofar as there is a contract which has just been let which would go through the year 2003 or through fiscal year 2003 for many hundreds of millions of dollars, we think it is prudent right now here in the House, and the Senate is doing likewise, to say to the American people through this amendment on the House side that none of the funds made available under this act may be used right now for the continuation of this particular contract because of the very serious questions which have been raised about this company.

I would like to make very clear that this amendment, if adopted, and I do believe the gentleman from Oklahoma (Mr. ISTOOK) is prepared to accept this amendment, and I hope the other side will, too, this amendment will not and is not intended to stop in any way, shape, or form or slow down the antidrug media campaign. It is designed to strengthen it by ensuring that we have corporations involved in the delivery of that message and the buying of the time to get that message out that are reputable and do not themselves raise serious questions about the integrity of the program.

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

Mr. BARR of Georgia. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, we are both very supportive of the media campaign, and we wish for it to continue; but what I want to make sure that we clarify through the colloquy is that despite what may be the concerns that some may have with the language, the intent of this amendment is not to shut down the media campaign.

Mr. BARR of Georgia. Mr. Chairman, I thank the gentleman for that question. Like the gentleman, I support the antidrug media campaign. It delivers a powerful message to youth and families across the country about the dangers of illicit drugs. It is an important weapon aimed at reducing drug abuse.

I am not seeking to prevent that message from being delivered loud and clear. The message I also want to send loud and clear through this amendment is that this media campaign is too important to allow a company that has already admitted to defrauding the government and reportedly remains under criminal investigation to receive more taxpayer dollars at this time.

Mr. ISTOOK. Mr. Chairman, if the gentleman would continue to yield, I understand the intent of the amendment is to allow further competition to make sure that other capable media firms are able to compete for the public funds to buy time for this important antidrug campaign on different media outlets.

Mr. BARR of Georgia. Mr. Chairman, yes. Again, I seek to restore integrity to the media campaign to ensure its ongoing success, not to end it. It is time to draw a line in the sand and take a stand. It is shameful for the government to reward any company that has admitted to fraud and reportedly is subject to part of a criminal investigation for its action.

Mr. ISTOOK. Mr. Chairman, if the gentleman would continue to yield, I do understand and I sympathize with the concerns of the gentleman from Georgia (Mr. BARR). I want to make sure that the gentleman understands that the purpose of this is to ensure that this program continues in a proper fashion, that the ad campaign is not disrupted, and that only those who properly should be handling it are involved in contracts for this matter.

I ask the gentleman, will he be willing to work with us during conference to modify the language as I expect will probably be necessary to ensure that there are no unintended consequences from this amendment, and that there is no disruption of this very important national antidrug campaign?

Mr. BARR of Georgia. Mr. Chairman, I wish to assure the gentleman that is my intent. My intent is that we continue the campaign and spend taxpayer dollars appropriately. Should we find another approach to reach that goal, I would be happy to join with the chairman and others in refining the language appropriately.

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

Mr. HOYER. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Chairman, I was pleased to hear the sponsor say that he wanted to see the program continue. One of the things I was interested in is that there have been defense contractors, like Halliburton, which have done things that were illegal; and I was just wondering whether the gentleman will take the same stand with regard to defense contractors who might have violated the law?

Mr. BARR of Georgia. Mr. Chairman, will the gentleman yield?

Mr. CUMMINGS. I yield to the gentleman from Georgia.

Mr. BARR of Georgia. Mr. Chairman, if the gentleman from Maryland looks at my record both as a United States Attorney and as a member of the Committee on the Judiciary, the Committee on Government Reform, and the Committee on Financial Services, he will see that I am very consistent in going after corruption, regardless of party, regardless of company.

Mr. HOYER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Chairman, I stand to support the Barr amendment, and to thank the chairman for agreeing to work with the gentleman from Georgia (Mr. BARR) and others as we go to conference to make sure that we do not stop this worthy program. Drugs in America is a cancer. We must do all we can to support our children.

□ 1315

At the same time, we must make sure that our Federal dollars that have been appropriated are spent wisely.

This company in question has padded their books, has been found guilty of $1.8 million overcharging the Federal Government. It is important that we monitor all of these contracts and that the moneys being used for advertising go to those communities where the most need is.

It is important that the gentleman from Georgia has introduced this amendment. I look forward to working with him and the chairman and our ranking member and just to reiterate how important it is that as we spend these advertising dollars, we select those companies who have the same mission that we have, which is to make sure the advertising gets out correctly, that they do not pad their bills and mischarge the Federal Government and come back for further business.

I stand in support of the gentleman's amendment barring payment of contracts to support a national media campaign to any

company that has entered into a settlement to pay claims against it by the Federal Government.

As far back as March of 1999, I began investigating the policies and procedures of awarding Federal advertising contracts. My investigation began with the advertising agency that had the ONDCP contract prior to the current agency that has settled with the government to pay 1.8 million dollars for padding vouchers.

The amendment is necessary not only to prohibit funds to the current agency (Ogilvy & Mather) who padded their invoices and overcharged the government, but also because there are several large Federal Government advertising contracts where the same allegations are being made.

The Army has an approximately $150 million annual advertising campaign to recruit and retain enlistees. The Center for Disease Control (CDC) has launched an annual $125 million advertising campaign to combat obesity to target kids.

Once awarded most government advertising contracts can be renewed for up to four additional years. Mr. Speaker, we must put a stop to the practice of blindly awarding government advertising contracts.

In this era of corporate irresponsibility we must make corporations more accountable for their actions. We cannot allow taxpayer dollars to go to corporations that shortchange the American People.

I urge a yes vote on the gentleman's amendment.

Mr. HOYER. Mr. Chairman, I thank the gentlewoman from Michigan (Ms. KILPATRICK) for her contribution to the debate.

Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, I rise as chairman of the authorizing subcommittee for the Office of National Drug Control Policy and the media campaign to raise a couple of points about this important matter. I believe the most important thing we need to do is protect the media campaign, and there is a big dispute about the best way to do that. I was hoping this could be worked out in conference and I am comforted by some of the words here in the debate, but I am reluctantly going to oppose the amendment.

I believe the media campaign is one of our only national programs that we have to try to reduce demand for illegal drugs, and I appreciate the efforts of the gentleman from Georgia as well as other members of our subcommittee to try to hold accountability and effectiveness in the media campaign, and we agree on that fundamental point. I am very disturbed about some of the process of the bidding. I am disturbed about the violations of the law that Ogilvy has committed.

I am concerned about the processes of how the creativity is done. But I also do not want the media campaign to go dark which the administration has maintained could happen depending on how this goes. I am concerned that if the Senate language and the House language are too similar, this could be conferenced and not give us the flexibility.

We have a hearing scheduled for Friday to look and see whether this would cause the media campaign to go dark. We need tougher answers from the administration to make sure that they are not being biased in the bidding process as opposed to real concerns that the media campaign can go dark. I believe this needs a more careful approach. Generally speaking, I totally agree with the gentleman from Georgia's point. When somebody has violated the confidence of the taxpayers, they should not be rebid unless there is compelling evidence, but in the Committee on Government Reform, we have seen other agencies where, for example, in long-term care, we have had to continue with some organizations, at least for a period of time, to make sure that the people are serviced as opposed to using an arbitrary one-size-fits-all standard.

I agree with the goals of this amendment. I believe that we need to carefully review the process. I would hope that whatever happens with this amendment, that the conference committee will continue to look through and make sure that the media campaign can stay up and on the air. We have a very effective antiterrorism message right now, but at this point, I reluctantly oppose the amendment.

Mr. BARR of Georgia. Mr. Chairman, I yield myself such time as I may consume.

The opposition by the distinguished chairman is completely mystifying. There is plenty of money in the pipeline, I would remind the distinguished chairman of the subcommittee. This amendment that we are looking at now, I would remind respectfully the chairman of the subcommittee, does not kick in even if it is adopted until the next fiscal year. There is absolutely nothing in this amendment, and I wish to again assure the chairman of the subcommittee as I assured in the colloquy with the chairman of the appropriations subcommittee, it is not our intent to cause any part of the antidrug program to go dark. It will not go dark. I do not know how much clearer we can make that. That is not our intent. This will not do it. This has to do with the next fiscal year. There is already money fully in the pipeline for whatever company the government contracts with, including Ogilvy & Mather, to continue their work. This simply gets a marker into the conference and that is what I wish to assure the chairman of the subcommittee and ask for his support on that basis.

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

Mr. BARR of Georgia. I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Chairman, does the drug czar of the administration agree that the campaign will not go dark?

Mr. BARR of Georgia. It does not matter whether they agree or not. There is nothing in this amendment, absolutely nothing, I assure the chairman, that will cause it to. And if, in fact, there is any problem that makes it apparent that this specific approach would cause a problem, as I stated in the colloquy and I state to the distinguished gentleman from Indiana, we will be glad to work, and I am sure that the other members of the conference committee would be glad to work to assure that that does not happen.

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

Mr. HOYER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Chairman, as someone who, with the gentleman from Ohio (Mr. PORTMAN) and others has worked on this important program, I am glad to hear the assurances that this program will continue. We have to be careful about the integrity of the contracting process. I hope all of us agree on that. As we implement our care with the integrity of the process, we also have to be sure that this important program is not shut down. It has had some successes and it has had some lack of successes, but overall, it is critical that the media effort, the outreach on drugs, that this effort continue.

So we will take the assurances of the sponsor of the amendment and it will go over to the Senate and then into conference, and I assume that those assurances will be implemented in the final language. It is the next fiscal year, but if there has to be recontracting, there could be a hiatus if we are not careful and we have to make sure there is no hiatus in this effort to make sure that the message about the danger of drugs is carried throughout this country effectively.

Mr. HOYER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maryland (Mr. CUMMINGS), the ranking member of the Subcommittee on Criminal Justice, Drug Policy and Human Resources.

Mr. CUMMINGS. Mr. Chairman, I thank the gentleman for yielding time. I just want to reiterate what the gentleman from Michigan (Mr. LEVIN) just said. I think that it is very important that at a time when so many of our young people are becoming addicted to drugs, and certainly I, along with the gentleman from Indiana (Mr. SOUDER) of our drug subcommittee, have traveled with our subcommittee all over this country, and we realize that drugs have no boundaries, that we keep the campaign intact. The campaign is not perfect. There are some things that we need to do to make it more effective, but we really do not want it to go dark. I understand the gentleman's concerns, but I want to make sure that we give every parent every tool that they can possibly have to help lift their children up so that they can be all that God meant for them to be.

Mr. Chairman, I rise in opposition to the amendment by Mr. BARR.

Mr. BARR's amendment would prohibit ONDCP from honoring a contract with advertising firm Ogilvy & Mather, under which Ogilvy would continue to provide advertising and advertising-related services that are central to the operation of ONDCP's Youth Anti-Drug Media Campaign.

If this provision is enacted, it will shut down the media campaign for at least the next year, and it will only make more difficult the task of reauthorizing and retooling this important program. Mr. BARR states that this is not his objective, but it will be the effect. So while the ostensible target is Ogilvy, the real victims of the Barr amendment will be American families who might benefit from the campaign's anti-drug messaging.

If this amendment passes, Mr. Chairman, it will effectively shut down the National Youth Anti-Drug Media Campaign—at least for the next year. If this amendment passes, the Media Campaign will go dark in most media markets by January 2003 and totally dark by March 2003. In fact, the consequences are even more far-reaching: (1) there would be no activity for nearly 75 percent of the program; (2) the Advertising Council would lose nearly 50 percent in pro bono match; and (3) the Partnership for a Drug Free America and ONDCP would lose an additional match of $23 million. These are irreversible consequences.

Additionally, the Campaign would be required to eliminate all local market and state-by-state media activity (local newspapers, local radio, local out-of-home media and local television media buys).

As Ranking Minority Member of the Government Reform Subcommittee on Criminal Justice and Drug Policy, I believe that the National Youth Anti-Drug Media Campaign is an important part of our national drug control strategy. Anti-drug messaging has worked in the past to reduce drug use among children and teens, and in many places across the country it appears to be working now.

Recent evaluations of the media campaign have not shown us the overall results we'd like to see in terms of reducing marijuana-usage among youth. But the same evaluations do show that anti-drug ads are being seen and remembered by parents and youth, and that ads targeting parents have been effective in getting parents to engage their children on the issue of drugs. Mr. Chairman, as a parent, one of the anti-drugs ads that I remember so vividly states this level of effectiveness most accurately—it reads and I paraphrase: Parents are the anti-drug. In my own 7th Congressional district in MD, there are 60,000 addicts in the City of Baltimore alone. Most of whom started using drugs in their early teens. I firmly believe that if their parents had talked to them about drugs and drugs use—there would be a lot fewer than 60,000 addicts. I think many of my colleagues would agree with this conclusion.

Mr. Chairman, the Barr amendment attempts to circumvent Federal contracting law in order to impose upon one company punishment that similarly-situated companies would not suffer.

Take, for example, Halliburton. This is a company that has profited, and continues to profit, enormously from multiple contracts with the Department of Defense. In February of this year, Halliburton subsidiary KBR reached a $2 million settlement with the government, amid criminal allegations of fraud, false claims, and false statements. KBR was subsequently awarded a ten-year unlimited-cost contract with the Army. Did we see a similar Barr amendment to the Defense Department Appropriations bill? No, Mr. Speaker, we didn't. And I think we have to ask why we are singling out one company and one program for special treatment—especially in view of the crippling effect this provision would have on the media campaign.

If we're going to set aside the duly enacted laws and regulations that the Congress and executive branch have devised to prevent abuse by Federal contractors, it seems to me we ought to be fair and consistent about it. Either it's good policy or it's not. If it's good for Ogilvy and ONDCP, then it ought to be good for Halliburton and the Army as well.

Can the campaign do better? I believe so. Will it do better? It will if we work together to make it better. For my part, I am committed to working with Mr. SOUDER, Mr. PORTMAN, members of the drug policy subcommittee, our counterparts in the Senate and ONDCP Director Walters to work through the problems with the campaign, with the single aim of making it as effective as it can be.

The amendment by Mr. BARR is simply not constructive toward this end. While it may make Members feel better to go after an easy political target in Ogilvy, the bottom line we should all be concerned with is this: passing this amendment will not improve the campaign. It will simply shut it down. I know that my colleagues want to avoid this result.

So I would say to my colleagues that if shutting down the media campaign is what Members want to accomplish, then they should vote for the Barr amendment. If they want to see the campaign live to do a better job of deterring our children from using drugs, then they should join Mr. SOUDER, Mr. PORTMAN and me in opposing this amendment. Let's not cut off our nose to spite or face.

DEFENSE CRIMINAL INVESTIGATIVE SERVICE PRESS RELEASE

The Office of the Inspector General (OIG), Department of Defense (DoD), announced today that on February 7, 2002, a settlement was reached with Brown and Root Services Corporation (BRSC), Houston, TX, regarding allegations of fraud, false claims and false statements. BRSC will pay $2 million in damages to the U.S. Government.

BRSC was the subject of a qui tam lawsuit filed by a former BRSC employee who alleged BRSC engaged in international false statements and misrepresentations to the Army Corps of Engineers during negotiations for individual delivery orders issued under a job order contract (JOC) for the former Fort Ord, CA, military installation. Over 200 individual delivery orders were issued under the Fort Ord JOC, valued in excess of $18.4 million. The alleged conduct resulted in the overvaluation of the cost of material and construction methods provided by the BRSC. The former BRSC employee who filed the qui tam lawsuit alleged that BRSC project general managers directed BRSC construction cost estimators to inflate the quantity and quality of higher cost materials and then present the inflated value of those materials to U.S. Army Corps of Engineers personnel during negotiations.

The settlement reached with the BRSC releases them from the civil claims addressed in the qui tam lawsuit. The qui tam relater will receive an undisclosed amount of the collected damages.

This investigation was conducted by the Defense Criminal Investigative Service (the criminal investigative arm of the OIG, DoD). Assistant United States Attorneys Michael Hirst, Chief of the Affirmative Civil Enforcement Unit, and Kandall Newman, Eastern District of California, Sacramento, CA, negotiated the global settlement.

[From the New York Times, July 13, 2002]

IN TOUGH TIMES, A COMPANY FINDS PROFITS IN TERROR WAR

(By Jeff Gerth and Don Van Natta, Jr.)

The Halliburton Company, the Dallas oil services company bedeviled lately by an array of accounting and business issues, is benefiting very directly from the United States efforts to combat terrorism.

From building cells for detainees at Guantanamo Bay in Cuba to feeding American troops in Uzbekistan, the Pentagon is increasingly relying on a unit of Halliburton called KBR, sometimes referred to as Kellogg Brown & Root. Although the unit has been building projects all over the world for the federal government for decades, the attacks of Sept. 11 have led to significant additional business. KBR is the exclusive logistics supplier for both the Navy and the Army, providing services like cooking, construction, power generation and fuel transportation. The contract recently won from the Army is for 10 years and has no lid on costs, the only logistical arrangement by the Army without an estimated cost.

The government business has been well timed for Halliburton, whose stock price has tumbled almost two-thirds in the last year because of concerns about its asbestos liabilities, sagging profits in its energy business and an investigation by the Securities and Exchange Commission into its accounting practices back when Vice President Dick Cheney ran the company. The government contracts, which the company said Mr. Cheney played no role in helping Halliburton win, either while he led the company or after he left, offer the prospect of a long and steady cash flow that impresses financial analysts.

Since the Sept. 11 attacks, Congress has appropriated $30 billion in emergency money to support the campaign against terrorism. About half has gone to the Pentagon, much of it to buy weapons, supplies, and services. Although KBR is probably not the largest recipient of all the government contracts related to terror efforts, few companies have longer or deeper ties to the Pentagon. And no company is better positioned to capitalize on this trend.

The value of the contracts to Halliburton is hard to quantify, but the company said government work generated less than 10 percent of its $13 billion in revenue last year.

The government business is ''very good, a relatively stable source of cash flow,'' said Alexandra S. Parker, senior vice president of Moody's Investors Service. ''We view it positively.''

By hiring an outside company to handle much of its logistics, the Pentagon may wind up spending more taxpayer money than if it did the work itself.

Under the new Army contract, KBR's work in Central Asia, at least for the next year, will cost 10 percent to 20 percent more than if military personnel were used, according to Army contract managers. In Uzbekistan, the Army failed to ascertain, as regulations require, whether its own units, which handled logistics there for the first six months, were available to work when it brought in the contractor, according to Army spokesmen.

The costs for KBR's current work in Central Asia could ''dramatically escalate'' without proper monitoring, but adequate cost control measures are in place, according to Lt. Col. Clay Cole, who oversees the contract.

The Army contract is a cost-plus arrangement and shrouded in secrecy. The contractor is reimbursed for its allowable costs and gets a bonus based on performance. In the past, KBR has usually received the maximum performance bonus, according to Pentagon officials. Though modest now, the Army contract could produce hundreds of millions of dollars for the company. In the Balkans, for instance, its contract with the Army started at less than $4 million and turned into a multibillion-dollar agreement.

Mr. Cheney played no role, either as vice president or as chief executive at Halliburton, in helping KBR win government contracts, company officials said.

In a written statement, the company said that Mr. Cheney ''steadfastly refused'' to market KBR's services to the United States government in the five years he served as chief executive. Mr. Cheney concentrated on the company's energy business, company officials said, though he was regularly briefed on the company's Pentagon contracts. Mr. Cheney sold Halliburton stock, worth more than $20 million, before he became vice president. After he took office, he donated his remaining stock options to charity.

Like other military contractors, KBR has numerous former Pentagon officials who know the government contracts system in its management ranks, including a former military aide to Mr. Cheney when he was defense secretary. The senior vice president responsible for KBR's Pentagon contracts is a retired four-star admiral, Joe Lopez, who was Mr. Cheney's military aide at the Pentagon in the early 1990's. Halliburton said Mr. Lopez was hired in 1999 after a suggestion from Mr. Cheney.

''Brown & Root had the upper hand with the Pentagon because they knew the process like the back of their hand,'' said T.C. McIntosh, a Pentagon criminal investigator who last year examined some of the company's Army contracts in the 1990's. He said he found that a contractor ''gets away with what they can get away with.''

For example, KBR got the Army to agree to pay about $750,000 for electrical repairs at a base in California that cost only about $125,000, according to Mr. McIntosh, an agent with the Defense Criminal Investigative Service.

KBR officials did not dispute the electrical cost figures, which were part of an $18 million contract. But they said government investigators tried to suggest wrongdoing when there was not any.

''The company happened to negotiate a couple of projects we made more money on that others,'' said one company lawyer, who insisted on anonymity. He added, ''On some projects the contractor may make a large or small profit, while on others it may lose money, as KBR sometimes did on this contract.''

Mr. McIntosh said he and an assistant United States attorney in Sacramento were inclined to indict the company last year after they developed evidence that a few KBR employees had ''lied to the government'' in pricing proposals for electrical repair work at Fort Ord. Mr. McIntosh said the Sacramento prosecutor said to him, ''Let's go for this, it's a winnable criminal case.''

A KBR lawyer said that the government's theory ''was novel and unfairly tried to criminalize what was only a preliminary proposal.''

The United States attorney's office in Sacramento declined to discuss its internal deliberations in the cast. But it dropped the criminal inquiry and reached a civil settlement in February, in part because of weak contract monitoring by the Army, according to Mr. McIntosh and a lawyer involved in the case.

As part of the settlement, KBR paid $2 million but denied any liability.

Last December the Army's Operations Support Command, unaware of the criminal investigation, found KBR's past contracting experiences to be exemplary as it awarded the company the 10-year logistical support contract, according to a command spokeswoman, Gale Smith.

The Army command's lengthy review of bidders did not discover that KBR was the target of a criminal investigation though it was disclosed in Halliburton's annual report submitted with the bid, according to Ms. Smith. She said that if the support command's managers had known of the criminal inquiry, they would have looked further at the matter but not changed the award.

KBR's ability to earn the Pentagon's trust dates back decades.

''It's standard operating procedure for the Department of Defense to haul in Brown & Root,'' said Gordon Adams, who helped oversee the military budget for President Bill Clinton.

The company's first military contract was in 1940, to build a Naval air station in Corpus Christi, Tex. In the 1960's, it built bases in Vietnam. By the 1990's, KBR was providing logistical support in Haiti, Somalia and the Balkans.

KBR's military logistics business began to escalate rapidly with its selection for a $3.9 million contract in 1992, Mr. Cheney's last year at the Pentagon. Over the last 10 years, the revenues have totaled $2.5 billion, mostly a result of widening American involvement in the Balkans after 1995.

''We did great things to support the U.S. military overseas—we did better than they could support themselves,'' said Charles J. Fiala, a former operations officer for KBR. ''I was in the Department of Defense for 35 years. We knew what the government was like.''

Robert E. Ayers, another former KBR executive who still consults for the company, said Mr. Cheney ''stayed fairly well informed'' on the Balkans contract.

Stan Solloway, a former top Pentagon procurement official who now heads an association of contractors, said the company ''understood the military mind-set'' and ''did a very good job in the Balkans.''

But reports in 1997 and 2000 by the General Accounting Office, the audit arm of Congress, found weak contract monitoring by the Army contributed to cost increases in the Balkan contract that benefited KBR.

The audit agency's 1997 report concluded that the Army allowed KBR to fly in plywood from the United States, at a cost of $85.98 a sheet, because it did not have time to procure it in Europe, where sheets costs $14.06.

Mr. Ayers, the former KBR executive, had worked on the Balkans contract. ''If the rules weren't stiff and specific,'' he said, ''the contractor could make money off of overspending by the government.''

The contract awarded last December by the Army's Operations Support Command, is ''open ended'' with ''no estimated value,'' said Ms. Smith, the command's spokeswoman. She said that was mainly ''because the various contingencies are beginning to unfold.''

KBR won this and most of its other Pentagon contracts in a competition with other contractors, but KBR is the sole source for the many tasks that fall under the umbrella contract.

Pentagon officials said the company had recently taken over a wide range of tasks at Khanabad Air Base in Uzbekistan, from running the dining operation to handling fuel and generating power for the airfield. The company employs Uzbeks, paying them in accordance with ''local laws and customs'' but operating under United States health and safety guidelines, according to Halliburton's statement.

For the first six months that American troops were at Khanabad, the logistical support was provided by the Army's First Corps Support Command. Mr. Cole, the contract manager for the joint command in Kuwait, said the contract would initially cost 10 to 20 percent more than if the Army had done the work itself. He said that he and his staff recommended using the contractor because ''they do a better job of maintaining the infrastructure.'' In addition, he said, the contractor should provide long-term flexibility, an asset in a war with many unknowns, and cost savings by avoiding Army troop transfers.

Ms. Smith said that the criticisms by the G.A.O. had led the Army to build additional controls into the contract.

At its base in Cuba, the Navy has followed the same pattern as the Army: use the military first and augment it with KBR. The Navy's construction brigade, the Seabees, built the first detention facility for battlefield detainees at Guantanamo Bay. Then the Navy activated a recently awarded $300 million, five-year logistic support contract with KBR to construct more permanent facilities, some 600 units, built mostly by workers from the Philippines and India, at a cost of $23 million.

John Peters, the Navy Facilities Engineering Command spokesman, said the permanent camp was ''bigger, more sophisticated than what Seabees do.'' But the Seabees built the facilities for the troops guarding the detainees, and in the 1990's the Seabees built two tent cities capable of housing 20,000 refugees in Guantanamo Bay.

''Seabees typically can perform the work at about half the cost of contractors, because labor costs are already sunk and paid for,'' said Daryl Smith, a Seabees spokesman.

Zelma Branch, a KBR spokeswoman, said the company relied on its excellent record rather than personal relationships to win its contracts. But hiring former military officers can help the company understand and anticipate the Pentagon's needs.

''The key to the company's success is good client relations and having somebody who could anticipate what the client's needs are going to be,'' Mr. Ayers, the former company executive, said.

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

Mr. Chairman, I took the time in opposition, but I am not going to oppose this amendment. Number one, it is my understanding with the chairman, pursuant to the colloquy, this amendment will not be affected as it now reads by the conference committee. Why? Because we want to make sure that the program does not go dark, I say tangentially, notwithstanding the fact that Mr. Walters says it is a program that has not worked, or recently has not worked, and he was, of course, an opponent of the program when it initially was adopted. That aside, let me say that one of the reasons I will not oppose it is because I believe the premise of the amendment is a premise that we all can share.

The distinguished gentleman from Maryland already mentioned this, but I think it bears mentioning again, not solely for political purposes, although obviously it is a high-visibility item, but also because this company is seeking to do business with the drug media

program. I mention Halliburton because it is a high-visibility company. Obviously the Vice President had some dealings with it. But it falls into the Ogilvy category. It is a company that has profited and continues to profit enormously from multiple contracts with the Department of Defense.

In February of this year, Halliburton subsidiary KBR reached a $2 million settlement, very similar to the Ogilvy settlement, with the government amid criminal allegations of fraud, false claims and false statements. KBR was subsequently, notwithstanding that, awarded a 10-year unlimited cost contract with the Army. There were no amendments to preclude that.

But the principle that the gentleman from Georgia puts before us is a very valid principle, and the principle is, if you want to do business with the government, play by the rules. We had an amendment on this floor that the gentleman from Virginia (Mr. MORAN) fought very strongly for that said if you want to abscond, if you want to dodge American taxes and dodge your responsibility and go overseas, to Bermuda or someplace else, then hey, we're not going to contract with you, we're not going to give you millions, tens of millions and hundreds of millions in contracts.

That is essentially the proposition that this amendment puts forward. I think it is a proposition frankly that the other body has sympathy with on both sides of the aisle. I do not think this is a partisan issue. I think the gentleman from Georgia is absolutely correct on that. Therefore, I have discussed this with the chairman, I think the chairman and I are in agreement, A, we are going to make sure that this program does not go dark. It may need to be made to operate more effectively and better so that it has the impact.

We have spent a lot of money on it although we have cut the money, as you know, that was originally asked for by the President by some $10 million, but this is an important program. But we want to make sure that this program is conducted in a fashion that all of us can have faith and trust and is not advantaging those who have undermined their responsibility to deal fairly with the government and deal fairly and legally with others.

In that context, Mr. Chairman, I will not object to this amendment, would hope that we could adopt it by a voice vote and then, working with the gentleman from Georgia and others, we will work in the conference to come to a conclusion that I think will stand for the proposition that this amendment stands for, and at the same time, protect the program that all of us feel is an important one.

Mr. BARR of Georgia. Mr. Chairman, the eloquence of the distinguished gentleman from Maryland cannot be added or subtracted to without doing it an injustice. I appreciate the words of the gentleman from Maryland in support of this amendment. I understand his concerns, which I share about making sure the program continues. We wish to strengthen it through this amendment and that is what I will work to do. I appreciate also the support of the distinguished gentleman from Oklahoma (Mr. ISTOOK) to whom I yield the balance of my time.

Mr. ISTOOK. How much time, may I inquire, remains, Mr. Chairman?

The CHAIRMAN pro tempore (Mr. LATOURETTE). The gentleman had 2½ minutes.

Mr. ISTOOK. Mr. Chairman, I appreciate the gentleman from Georgia's efforts to make sure that this contract that comes under the jurisdiction of our subcommittee for this national antidrug campaign is handled responsibly. The reason we have these questions is because there has been a GAO inquiry into the prior performance of this same contract by the Ogilvy firm and there has been a major fine assessed for improper charges and handling and abuses in their performance of that contract. That is why we have this language, to make sure that we can have it reviewed to make sure that that contract is handled properly.

However, Mr. Chairman, I do not believe that this was a proper occasion for people to try to bring up extraneous matters that have not been the subject of such investigation. We have not been here talking on the floor about, for example, Global Crossing and tens of millions of dollars—or was it hundreds of millions of dollars—obtained by insiders and obtained by Terry McAuliffe, the Democratic National Committee chairman; we have not been bringing up the allegations of abuses related to Enron and the possible involvement of Citibank chaired by the former Secretary of the Treasury Robert Rubin from the Clinton administration; and I do not think it was appropriate for people to try to bring this up as an opportunity to take shots at other people in the debate here.

We have plenty of time to focus on each misdeed as we learn of it and to make sure that we hold every person in America fully accountable under our laws. That is what we want to make sure that we do in this particular contract with the people that are involved in performing it. We do not need to go far afield as I heard some people do earlier and as I did myself only to point out that this is inappropriate. We are here talking about the drug contract. We are here talking about the firm that abused their position as a contractor with the taxpayers on this and to make sure that abuse does not happen but that correcting that abuse will not disrupt this important national drug effort.

□ 1330

The CHAIRMAN pro tempore (Mr. LATOURETTE). All time for debate has expired.

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

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6, rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 21, offered by the gentleman from Virginia (Mr. MORAN), the amendment offered by the gentleman from Colorado (Mr. HEFLEY); amendment No. 16, offered by the gentleman from Colorado (Mr. HEFLEY); and amendment No. 7, offered by the gentleman from Vermont (Mr. SANDERS).

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

AMENDMENT NO. 21 OFFERED BY MR. MORAN OF VIRGINIA

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

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 261, noes 166, not voting 7, as follows:

[Roll No. 336]

AYES—261

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Chambliss
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Forbes
Ford
Fossella
Frank
Frost
Ganske
Gekas
Gephardt
Gilman
Gonzalez
Gordon
Granger
Graves
Green (TX)
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hayes
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Hunter
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Kucinich
LaFalce
LaHood
Lampson

Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Platts
Pomeroy
Price (NC)
Quinn
Rahall
Rangel
Reyes
Riley
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Serrano
Sherman
Shimkus
Shows
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walsh
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Wolf
Woolsey
Wu
Wynn

NOES—166

Aderholt
Akin
Armey
Bachus
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Castle
Chabot
Coble
Collins
Combest
Cooksey
Crane
Crenshaw
Cubin
Culberson
Cunningham
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Everett
Flake
Foley
Frelinghuysen
Gallegly
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Green (WI)
Greenwood
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (IL)
Johnson, Sam
Keller
Kennedy (MN)
Kerns
Kirk
Knollenberg
Kolbe
Latham
Lewis (CA)
Linder
Lucas (OK)
Manzullo
McCrery
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Otter
Oxley
Paul
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shuster
Simmons
Simpson
Skeen
Smith (TX)
Souder
Stump
Sullivan
Sununu
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)
Young (FL)

NOT VOTING—7

Bonior
Cannon
Cox
Delahunt
Stearns
Tancredo
Traficant

□ 1353

Messrs. COBLE, LEWIS of California, and COOKSEY changed their vote from ''aye'' to ''no.''

Messrs. CHAMBLISS, KINGSTON, LAHOOD, FORBES, OWENS, THOMPSON of Mississippi, JOHN, and STENHOLM changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HEFLEY

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

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 165, noes 265, not voting 4, as follows:

[Roll No. 337]

AYES—165

Akin
Armey
Bachus
Ballenger
Barcia
Barr
Barrett
Bartlett
Bass
Bereuter
Berry
Biggert
Bilirakis
Boozman
Boswell
Bryant
Burr
Burton
Buyer
Camp
Cannon
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Cramer
Crane
Cubin
Cunningham
Davis, Jo Ann
Deal
DeFazio
DeMint
Doggett
Doolittle
Duncan
Ehrlich
Evans
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Gallegly
Ganske
Gibbons
Gilman
Goode
Goodlatte
Gordon
Graham
Green (TX)
Green (WI)
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Hostettler
Hulshof
Hyde
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind (WI)
Kingston
Kirk
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Luther
Manzullo
Matheson
McInnis
McIntyre
Mica
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Moore
Moran (KS)
Myrick
Nethercutt
Ney
Norwood
Osborne
Otter
Oxley
Paul
Pence
Petri
Phelps
Pickering
Pitts
Platts
Radanovich
Ramstad
Rehberg
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Sensenbrenner
Sessions
Shadegg
Shimkus
Shows
Shuster
Simmons
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stenholm
Stump
Sullivan
Sununu
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)

NOES—265

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Baird
Baker
Baldacci
Baldwin
Barton
Becerra
Bentsen
Berkley
Berman
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Callahan
Calvert
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Cox
Coyne
Crenshaw
Crowley
Culberson
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Fossella
Frank
Frelinghuysen
Frost
Gekas
Gephardt
Gilchrest
Gillmor
Gonzalez
Goss
Granger
Graves
Greenwood
Grucci
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kerns
Kildee
Kilpatrick
King (NY)
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Simpson
Skeen
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tauscher
Tauzin
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walsh
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Waxman

Weiner
Wexler
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—4

Bonior
Stearns
Tancredo
Traficant

□ 1402

Mrs. BIGGERT changed her vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 16 OFFERED BY MR. HEFLEY

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

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 147, noes 282, not voting 5, as follows:

[Roll No. 338]

AYES—147

Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bereuter
Berry
Bilirakis
Blunt
Boswell
Brady (TX)
Bryant
Burr
Burton
Buyer
Cannon
Cantor
Castle
Chabot
Chambliss
Clement
Coble
Collins
Cooksey
Costello
Cox
Crane
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal
DeMint
Diaz-Balart
Doggett
Duncan
Ehrlich
English
Everett
Flake
Foley
Forbes
Fossella
Gallegly
Gibbons
Goode
Goodlatte
Graham
Graves
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Hostettler
Hyde
Issa
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Kirk
Linder
Lucas (KY)
Luther
Manzullo
Matheson
McInnis
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Norwood
Nussle
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Ramstad
Rehberg
Reynolds
Riley
Roemer
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shows
Simmons
Smith (MI)
Smith (TX)
Smith (WA)
Stenholm
Stump
Sullivan
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)

NOES—282

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Callahan
Calvert
Camp
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Combest
Condit
Conyers
Coyne
Cramer
Crenshaw
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Ford
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hastings (FL)
Hastings (WA)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Reyes
Rivers
Rodriguez
Rogers (KY)
Rogers (MI)
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Serrano
Shaw
Sherman
Sherwood
Shuster
Simpson
Skeen
Skelton
Smith (NJ)
Snyder
Solis
Souder
Spratt
Stark
Strickland
Stupak
Sununu
Sweeney
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walsh
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—5

Bonior
Slaughter
Stearns
Tancredo
Traficant

□ 1411

Mrs. CLAYTON changed her vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. SLAUGHTER. Mr. Speaker, I missed rollcall No. 338, Hefley amendment #16.

Had I been present, I would have voted "no".

AMENDMENT NO. 7 OFFERED BY MR. SANDERS

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

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 308, noes 121, not voting 5, as follows:

[Roll No. 339]

AYES—308

Abercrombie
Ackerman
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Borski
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Coble
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Green (TX)
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastings (FL)
Hayes
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hoyer
Hunter
Inslee
Isakson
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Kucinich
LaFalce
LaHood
Lampson
Langevin

Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Platts
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Serrano
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Walden
Walsh
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—121

Aderholt
Akin
Armey
Ballenger
Barr
Barton
Bereuter
Biggert
Blunt
Boehner
Bonilla
Bono
Boozman
Boswell
Brady (TX)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Chabot
Chambliss
Collins
Combest
Crane
Crenshaw
Cubin
Culberson
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Flake
Gallegly
Gibbons
Granger
Graves
Green (WI)
Greenwood
Hart
Hastings (WA)
Hayworth
Herger
Hostettler
Houghton
Hulshof
Hyde
Issa
Istook
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kennedy (MN)
Kerns
Kirk
Kolbe
Linder
Lucas (KY)
Lucas (OK)
McCrery
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Northup
Norwood
Osborne
Otter
Oxley
Paul
Pence
Pitts
Pombo
Pomeroy
Portman
Putnam
Ramstad
Rehberg
Riley
Rogers (MI)
Ryan (WI)
Sensenbrenner
Sessions
Shays
Simpson
Skeen
Smith (TX)
Stenholm
Stump
Tauzin
Thomas
Thornberry
Tiahrt
Tiberi
Vitter
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Wicker
Wilson (SC)
Wolf

NOT VOTING—5

Bonior
Knollenberg
Stearns
Tancredo
Traficant

□ 1420

Mr. MORAN of Kansas changed his vote from ''aye'' to ''no.''

Mrs. JO ANN DAVIS of Virginia and Mr. FORBES changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. WYNN

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. WYNN:

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.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Maryland (Mr. WYNN) and a Member opposed each will control 2½ minutes.

Mr. ISTOOK. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. WYNN).

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

I do intend to withdraw this amendment, but I want to bring to the attention of the House, and more importantly, the American people a very important issue, and that is, contracting out and whether the American taxpayer is receiving best value. Some people have characterized this issue as private contractors versus Federal employees. It is not. The issue before us today is whether the American taxpayer is getting best value for the services we contract out.

The essence of this amendment is to ensure that there is transparency and scrutiny of government contractors to determine whether the American public is receiving best value, both quantitatively and qualitatively, by establishing a centralized reporting by each agency of its contracting efforts.

In recent years, the notion that outsourcing is the most cost-efficient approach to providing government services has gained considerable momentum. However, when we asked the Government Accounting Office to tell us how many contracts were being let by the Federal Government, who was involved and how much the savings were, they could not tell us, and they said they could not tell us because there was no centralized accounting so that they could identify how much each agency was doing.

In the absence of accountability and congressional oversight, indiscriminate outsourcing and privatization of government services will grow with no guarantee of actual cost savings.

My amendment is very simple. It will require that each agency establish a centralized reporting system on its contracting practices. The reports submitted to the director of the Office of Management and Budget would include the contract number and the Federal supply class of service code; a statement of why the contracting effort was undertaken; the name of the supervisors and officials involved; the cost of Federal employee performance at the time the work was contracted out, if the work had been previously performed by Federal employees.

It would also report the anticipated cost of contractor performance and the cost of, the anticipated cost and the actual cost of contract performance, and most importantly, the reports would include the actual savings, if any, compared with performance by Federal employees. The number of contract employees would also be listed.

This oversight responsibility would be accomplished by submitting these reports to the Committee on Government Reform in the House and the Committee on Government Affairs in the Senate.

The director of the Office of Management and Budget would publish in the Federal Register notices of when the reports would be available to the public so that the public could determine if they are getting best value.

Currently, agencies do not closely monitor the cost efficiency of the billions of dollars in contracting out and privatization. There is no oversight of contracts after they have been awarded to compare past costs with current costs or to consider the potential effects of cost overruns.

If outsourcing and privatization are to work, it must be transparent. It must be truthful. All the parties must be disclosed, identified and held responsible and accountable for their actions.

My amendment very simply would add basic safeguards such as reporting and oversight, two that are currently missing from the process. I believe this is a good amendment and an important issue for this Congress.

Mr. WYNN. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Maryland?

There was no objection.

AMENDMENT OFFERED BY MR. HOYER

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HOYER:

In the appropriate place at the end of the bill (before the short title), include the following:

SEC. . None of the funds provided to the Customs Service under this Act shall be used to require reports on repairs to U.S. flag vessels on the high seas.

Mr. CRANE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. Pursuant to the order of the House Tuesday, July 23, 2002, the gentleman from Maryland (Mr. HOYER) and a Member opposed each will control 5 minutes.

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

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

I thank the distinguished gentleman from Illinois (Mr. CRANE) for reserving and giving me the opportunity to explain this amendment.

Mr. Chairman, this amendment frankly was brought to me just within the last 48 hours. It does, however, seem to raise an issue of significant importance and difficulty for a number of those in the shipping business.

The problem apparently is that if a person has a ship repaired while on the high seas, that is not within the territorial waters of any nation, and those repairs are effected using non-U.S.

parts, then they must fill out very substantial paperwork, and very substantial reporting requirements are implicated in that instance, so that we are causing a great burden to shipping companies that are U.S.-flagged. Obviously, we want shipping to be U.S.-flagged. We know that that is a difficulty.

I have introduced this amendment to try to address that issue. Because I introduced the amendment as a ''none of the funds'' and it is, therefore, a very blunt instrument, I agree with the gentleman from Illinois (Mr. CRANE) that this amendment should not pass in its present form. Even if it were added to the bill, I would be in favor of dropping it in conference. Its purpose was solely to protect our ability to address this issue.

It is, however, my understanding from the gentleman from Illinois (Mr. CRANE) and his staff that they share the view that this is a problem and that they are going to look at that and look at it closely. I do want to thank the gentleman from Illinois (Mr. CRANE) for his attention to this matter and for his staff working with us to see if we can come to a resolution of this matter.

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

Mr. HOYER. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I thank the gentleman for yielding and want to reassure him that his concerns are valid, legitimate concerns, and that we on the committee will look into this issue because it is something that needs to be resolved.

Mr. HOYER. Mr. Chairman, I thank the gentleman for his comments.

Mr. HOYER. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The CHAIRMAN pro tempore. Are there further amendments?

If not, the Clerk will read the last two lines.

The Clerk read as follows:

This Act may be cited as the ''Treasury and General Government Appropriations Act, 2003''.

Mr. BLUMENAUER. Mr. Chairman, today I voted for the fiscal year 2003 Appropriations Bill for Treasury, Postal Service, and General Government. This bill contains key provisions that I have supported in Congress.

The appropriations bill before us contains a measure that prohibits the use of funds in the bill to finalize, implement, administer or enforce the proposed Treasury Department rule declaring that real estate brokerage is ''an activity that is financial in nature or incidental to a financial activity.'' I agree with this prohibition and am a cosponsor of H.R. 3424, which would accomplish the same objective. The banking industry provides an invaluable function in our economy and the integrity of its operations and security of deposits is critical. The Gramm-Leach-Bliley Act is speeding ongoing changes in the United States financial services industry and allows banks flexibility in responding to economic trends. However, I do not believe the benefits of allowing banks to engage in real estate brokerage and property management activities outweigh the risks.

Regarding the Postal Service, the bill specifically requires that six-day delivery of mail be continued. It also requires that mail for overseas voting and for the blind continue to be free. I have always believed post offices play an integral role in the livability of our communities. They serve as business, social and often historical centers in our neighborhoods. It's for these reasons that I am a sponsor of legislation, H.R. 1861, which requires the Postal Service to engage local officials and the public it serves when opening, closing, relocating, or renovating facilities. I hope we continue to work to ensure the Postal Service is a good partner with our communities and follows local laws and regulations.

I am pleased that the final bill, for the second year in a row, ends the travel ban to Cuba and allows for private financing of agricultural sales to Cuba by U.S. farmers. In addition, the House approved an amendment to allow Cuban-Americans to send money to their relatives in Cuba without restrictions. Food and medicine should not be used as weapons. The Cuban people should not have to suffer because the United States does not agree with the Cuban government. These provisions show that there is growing momentum in favor of getting rid of the embargo against Cuba altogether. Only through engagement will we be able to effectively promote the ideals of human rights and democracy.

The CHAIRMAN pro tempore. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMKUS) having assumed the chair, Mr. LATOURETTE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 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, and for other purposes, pursuant to House Resolution 488, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1430

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on passage of the bill.

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

Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4775) ''An Act making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.''.

PROVIDING FOR CONSIDERATION OF H.R. 4965, PARTIAL-BIRTH ABORTION BAN ACT OF 2002

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 498 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 498

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 4965) to prohibit the procedure commonly known as partial-birth abortion. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) two hours of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit.

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

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

Mr. Speaker, on Tuesday the Committee on Rules met and granted a closed rule for the Partial-Birth Abortion Ban of 2002. H.R. 4965 would ban performance of a partial-birth abortion except if it were necessary to save the mother's life. As an original cosponsor of this legislation, I am pleased to see the legislation reach the floor of the House. I also believe that President Bush deserves the opportunity to put an end to this horrific act of human violence by signing this legislation into law.

I must tell my colleagues, as a mother and a grandmother, it is still astonishing to me today that this is even remotely legal in America, but it is, and as we will no doubt hear on the floor today, it is practiced all too often in this country. The vast majority of partial-birth abortions are performed on

healthy babies and healthy mothers. Although language banning this procedure has been struck down in the past by the Supreme Court, this new legislation has been tailored to address the Court's concerns. The five-Justice majority in Stenberg vs. Carhart thought that Nebraska's definition of partial-birth abortion was vague and could be construed to cover not only abortions in which the baby is mostly delivered alive before being killed but also the more common dilation and evacuation, D&E, method.

H.R. 4965 defines partial-birth abortion as an abortion in which the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of a breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus.

The tighter definition not only clarifies the procedure so that the Court will not reject it, it also draws attention to the violence of partial-birth abortion by describing how far out the baby can be.

I am pleased that we are bringing the Partial-Birth Abortion Ban Act of 2002 to the floor again. We have changed the bill, adding findings of fact to overcome constitutional barriers, and I am confident that it will survive judicial review.

The American people, Mr. Speaker, want this bill in overwhelming numbers, believing in their hearts that we are better than this. We are a better people. To that end, I urge my colleagues to support the rule and the underlying bill.

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

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentlewoman from North Carolina for yielding me the customary 30 minutes.

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

Ms. SLAUGHTER. Mr. Speaker, we are about to begin our annual debate on a procedure that is not really recognized by the medical profession, which is totally unconstitutional, and would not go anywhere. The Supreme Court just recently said again that all the laws that they have had brought before them, and particularly the one on Nebraska, were unconstitutional. Given that, it is very tempting for us on our side to talk about the things that American people are concerned about. Their pensions, their jobs, corporate responsibility, accounting measures, the regulation that we can try to do to make things better for us, creation of jobs, education, health care, prescription drugs. But, no, we are going to spend 3 hours on this issue right here which will not be taken up by the Senate and which is unconstitutional and, frankly, we should not be messing with it. It really is a hoax on the public and I am sorry to be a part of it.

But, Mr. Speaker, I certainly oppose the closed rule. They have shut out all meaningful debate on this. Anybody who had a right to talk about this on the other side was totally ignored, given no opportunity. No amendment will be allowed. You heard me correctly; no amendment to protect the lives of women will be allowed. For a bill that impacts so fundamentally the life of women, this is unconscionable and wholly unsurprising, given the contempt shown in this House for measures that impact our sisters and our daughters.

We have been given 2 hours of general debate on this issue, and I would not be at all surprised if that is more time, given the nature of the rule, than we give to the national security issue this afternoon on homeland security.

Mr. Speaker, election season is upon us. In the face of a crumbling stock market, an exploding deficit, and uncertain war on terrorism at home and around the globe, of this we can be sure: Congress will use the floor of the House of Representatives to push propaganda restricting a woman's right to choose. Direct mail pieces distorting this issue will hit the streets as soon as the vote is completed, just in time for the August recess. This vote before us is pure politics. The measure is cynical, it is unconstitutional, and it demeans this institution and those who serve in it.

On its face, H.R. 4965 suffers from the same two flaws that led the Supreme Court to declare a similar Nebraska law unconstitutional: It fails to include an exception to protect maternal health, and it places an undue burden on a woman's right to obtain an abortion prior to viability by banning the most common second trimester abortion procedure.

Fifteen pages of congressional findings do nothing to remedy this unconstitutionally flawed bill. In fact, the case law is clear. The Supreme Court articulated the three principles that govern abortion laws: One, a woman has the right to choose to terminate her pregnancy prior to viability. That is the law of the land. Two, the State cannot impose an undue burden on the woman's right to terminate a pregnancy. And, third, after viability, a State may regulate abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

How strange it is that we do not really care about the life or the health of the mother. The measure before us today does not include an exception to protect the health of the woman, and certainly poses an undue burden on her.

Moreover, and very importantly, this bill will turn doctors into criminals and put them in jail for performing a safe medical procedure which, in their best judgment, is the best way to protect a woman's right to having further children. The civil sanctions and criminal remedies, along with previous references by legislative proponents to medical professionals as assassins, exterminators, and murderers are part of a design to intimidate medical professionals from performing abortions generally.

In the context of abortion clinic demonstrations and bombings, it is clear that many in the movement have an agenda of banning all abortions. The measure before us today is clearly a part of this ongoing effort. Criminal sanctions for doctors would chill any medical professional from performing many of the most common procedures. Given the vague and the overbroad language of the bill, doctors can reasonably fear prosecution for using the safest and most common abortion methods, and they probably will not perform them. Who could blame them?

I assure my colleagues that the primary concern of most physicians will not be protecting the health of the woman, but protecting their own professional life. For this reason, the American Medical Association does not support this bill. Indeed, they are not the only ones. The American Public Health Association, the American Nurses Association, the American Medical Women's Association, Physicians for Reproductive Choice and Health, the American College of Nurse Practitioners, the American Medical School Student Association, the Association of Reproductive Health Professionals, Association of Schools of Public Health, Associations of Women Psychiatrists, National Asian Women's Health Organization, National Association of Nurse Practitioners and Reproductive Health, The National Black Women's Health Project, and the National Latina Institute for Reproductive Health.

But the bill does not stop here. Not content to cause the woman great harm or put the doctor in jail, in one of its most egregious provisions, it allows the woman to be sued by her husband or parents if she receives this procedure. In essence, proponents of this measure want to give a husband the veto power over a woman's decision. The Supreme Court has expressly held this to be unconstitutional.

Think about it for a moment. Are we really prepared to allow an abusive husband, or a husband who has abandoned his wife, to threaten his wife with a lawsuit if she obtained a procedure to protect her health and future fertility? Who do we think we are? The last time you were facing a life-or-death decision, do you want Congress with you in the emergency rooms? If, God forbid, you should find yourself in this terrible position, are you not going to allow the doctors to make a decision until your Member of Congress arrives because he or she will be the last word? Sitting down with your family, do you need Congress there to do it?

Congress does not have the right or the expertise to make these decisions for the American people; and, indeed, in the history of the Congress of the United States, no medical procedure has ever been outlawed. We are literally practicing medicine without a license.

It is unconscionable for this Congress to continually place its political agenda ahead of a woman's ability to have access to safe and appropriate medical care. Just like any other patient, a woman deserves to receive the best care based on the circumstances of her particular situation. As a Member of Congress, a mother of three daughters, and a long-time advocate of women's health, I strongly believe that the health of American women matters, and I urge my colleagues to vote ''no'' on this rule and no on the underlying bill.

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

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 4 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, during the Stenberg v. Carhart case, Supreme Court Justice Clarence Thomas accurately described the partial-birth abortion method when he said the following, and I apologize for the graphic nature of the quote, but this is the reality of what a partial-birth abortion act is. He says: ''After dilating the cervix, the doctor will grab the fetus by its feet and pull the fetal body out of its uterus into the vaginal cavity. At this stage of development, the head is the largest part of the body. The head will be held inside the uterus by the cervix. While the fetus is stuck in this position, dangling partly out of the woman's body and just a few inches from a completed birth, the doctor uses an instrument, such as a pair of scissors, to tear or perforate the skull. The doctor will then either crush the skull or will use a vacuum to remove the brain and other intracranial contents from the fetal skull, collapse the fetus's head, and pull the fetus from the uterus.''

□ 1445

Mr. Speaker, this terrible act, known as partial-birth abortion, is what we are urging our colleagues to ban today.

As noted in H.R. 4965, congressional findings further signal that partial-birth abortion is not medically indicated to preserve the health of the mother; and it is in fact unrecognized as a valid abortion procedure by the mainstream medical community.

To quote the American Medical Association: ''The partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and physicians.''

Furthermore, the AMA could not find any identified circumstance in which the procedure was the only safe and effective abortion method.

Mr. Speaker, contrary to what the deceptive, pro-abortion lobby would like us to believe, partial-birth abortions involve killing almost fully delivered babies from the later stages of pregnancy, and not only in cases of fetal disorders or maternal distress. Contrary to the lies of the pro-abortion campaign, this is not a rare act that is only performed in extraordinary circumstances. In fact, most are performed for strictly elective reasons, and I quote abortionist Martin Haskell, who reported to the American Medical News, ''most of my abortions are elective in that 20–24 week range. In my particular case, probably 20 percent are performed for genetic reasons, and the other 80 percent are purely elective.''

But the worst tragedy of all is that partial-birth abortions are currently legal. This legislative body has twice approved to ban this atrocious act, only to have it vetoed twice by former President Bill Clinton. Today we have another historic opportunity to help stop this abhorrent act of killing the innocent unborn. I urge Members to take action and vote in favor of H.R. 4965.

Ms. SLAUGHTER. Mr. Speaker, I yield 6 minutes to the gentleman from Maryland (Mr. HOYER).

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

Mr. Speaker, today on this serious and most sensitive issue, the Republican leadership has turned the people's House into nothing more than a poser's House, posing for holy pictures, as the gentleman from Wisconsin (Mr. OBEY) would have us say. The world's greatest deliberative body will not engage in democratic debate today. It will engage in a contrived, cynical charade.

In 1994 after the GOP majority captured the House, Gerald Solomon, the former Republican chairman of the Committee on Rules stated, ''The guiding principles will be openness and fairness.'' He was referring to the guiding principles of the Committee on Rules. He went on to say, ''The Rules Committee will no longer rig the procedure to contrive a predetermined outcome.'' ''From now on,'' Mr. Solomon went on, ''the Rules Committee will clear the stage for debate, and let the House work its will.''

I do not know how genuine was Mr. Solomon's conviction when he made those comments, but I presume that they were sincere. But the practice has been the opposite. Today's debate will not be open. It will not be fair. And it will not be a serious attempt to legislate. The rule ensures a rigged procedure to contrive a predetermined outcome, the very process the Republican Party derided when it regained the majority.

If the Republican leadership was really committed to fair and open debate, it would permit the Members to vote on the bipartisan Late Term Abortion Restriction Act which I and the gentleman from Pennsylvania (Mr. GREENWOOD), my Republican colleague, introduced last year and a number of years previous to that.

But the Committee on Rules has denied us that opportunity four times since 1995. Let Members be clear, the Partial-Birth Abortion Ban Act will not prevent a single abortion. Let me repeat that. The bill before us and on this floor reported out of the Committee on the Judiciary will not prevent a single abortion. Not one.

And the gentlewoman from Florida (Ms. ROS-LEHTINEN), who just spoke, testified to that fact when she said this procedure was not necessary and medical experts have said there are other methods to terminate the pregnancy. In other words, the issue here in this bill that is proposed by the Republican majority is not about preventing abortion, it is about a procedure.

I have asked those who are for this bill if this procedure were worse than others that are used to terminate a pregnancy. Is there anyone here who doubts the answer to that question is a clear and resounding ''no.''

The bill that the gentleman from Pennsylvania (Mr. GREENWOOD) and I introduced and which we asked to have made in order would have precluded all post-viability abortions because I believe the majority of us in this House believe that postviability abortion ought not to be by choice, but we do what the Supreme Court mandates we do and in my opinion is appropriate to do, and that is to provide for an exception so that the life of the mother might be saved if in the medical judgment such a procedure is necessary to accomplish that objective.

Furthermore, as the Supreme Court requires, and in my opinion is appropriate, it provides that if the mother's health will be put at risk, the medical procedure can be affected, but only in those instances. Otherwise late-term abortion, postviability abortion, would be precluded. The partial-birth abortion bill is sometimes I think by a sloppy press referred to as a late-term abortion. It has nothing to do with late term because the process can be used at any point in the pregnancy.

In fact, this bill would ban a rare medical procedure reserved for the most tragic of circumstances. In contrast, our bill will preclude all late-term abortions. Members may ask why is this not made in order? Why are they afraid to have us debate it? They can oppose it and say they do not agree with the exceptions. They can say the Supreme Court is wrong. But why preclude the opportunity in the people's House to adopt an amendment which reflects the law in 43 States of the United States of America?

Mr. Speaker, I will vote against this rule. What a shame that the majority fears open debate on this issue.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. Mr. Speaker, I rise in support of both this rule and the underlying legislation, H.R. 4965, the Partial-

Birth Abortion Ban Act of 2002. This rule will allow adequate time for debate on this measure in addition to a motion to recommit with or without instructions, which will allow the House to work its will on this bill.

Today I will spare the House the horrible details of partial-birth abortion, for I am certain that many of my colleagues are all too familiar with the gruesome reality of this deadly procedure. I am also well aware of the Supreme Court's decision in Stenberg v. Carhart and the attempts by opponents of this bill to use that 5–4 decision as a safety net for their pro-abortion agenda.

Opponents of this measure will tell us that H.R. 4965 is unconstitutional because of the Supreme Court's Carhart decision. They will tell us we have no right to legislate a ban on this horrible practice because the Supreme Court says we cannot. I find that argument ironic, considering 413 Members of this body voted to pass a child pornography bill last month after the Supreme Court told us in Ashcroft v. Free Speech Coalition that we could not. Although I certainly respect the Supreme Court exercising its article III duties, I believe the Congress has its own duty to create and pass laws that protect the people of this country.

Before today, the House of Representatives had passed a ban on this procedure by veto-proof majorities in the last three Congresses. Why? Because an overwhelming bipartisan majority of this body, Members who represent the collective voice of the people of this country, believe that the line differentiating this practice and homicide is gray at best. How can any Member of the House turn to their constituents and tell them yes, I support a practice where the legal definition of murder and abortion are separated by mere inches? I, for one, cannot.

As such, I support both this rule and the underlying measure. It is time we put an end to this procedure which has been historically opposed not only by an overwhelming majority of this body but by an overwhelming majority of the citizens of this country. We will not relent on this issue. We will continue to fight for a ban on partial-birth abortions, and I ask that Members join with us in prohibiting this abhorrent practice.

In closing, let me say that when a Nation puts people in jail and fines them for destroying the potential life of an unborn loggerhead turtle or bald eagle, and then pays people for destroying the potential life of unborn babies, that Nation has lost its way.

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

Mr. Speaker, I would say to the gentleman who just spoke, the Hoyer amendment was not eligible for a motion to recommit because it is out of scope and would require a waiver.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, this House has had many fine moments where it has stood up to correct the wrongs of this Nation. For me personally, I remember the Civil Rights Act of 1964, as well as the Voter Rights Act of 1965, a life-changing experience for the community from which I come.

Today this House steps away from that fine hour. Not because I do not agree with the underlying principles that we have a responsibility to appreciate and honor life, but I believe that when we engage in frivolous legislation, we have a very large explanation to make.

The Stenberg case made a simple principle regarding this procedure, that a medical doctor can make a judgment in order to provide for the health of the mother. This has not been defined as an abortion. It has been defined as helping to save the life or the health of a mother. Over and over again we have said that decisions should be made between that mother's God, family, and physician. Yet this body now brings before us legislation that is denied an amendment that I offered, and many other Members offered, that would at least allow us to put into the bill that a procedure could be done, a medical judgment could be made, in order to save the life of the mother.

We realize that Congress has in its past overridden the United States Supreme Court; but at the same time, the Supreme Court can come back and say it is unconstitutional. It is the highest law of the land, and so we can keep going back and forth and back and forth. Justice Thomas said himself, ''We know of no support for the proposition that if the constitutionality of a statute depends in part on the existence of certain facts, a court may not review Congress' judgment that the facts exist.'' That is the key.

Again they ruled a Nebraska ban on partial-birth abortion, a label that has only been defined by this Congress, unconstitutional because it did not have a provision that allowed that physician to make a determination on the basis of the health of that mother.

□ 1500

We come again to talk about what our doctors do. We are not talking about criminals. We are talking about physicians who are being asked after many, many occasions for that mother to go and find a way to save the life of her unborn child. Yet when the decision has to be made to save her life and/or her health in order to have her procreate again, we put it on the floor of this House and make it a political decision.

I know that many of us can offer our own personal stories. Many women testified and pleaded with us as we listened to their testimony over the years. They did not want to have this procedure. They tried to go anywhere that they could. But because of the determination, the medical judgment, that decision had to be made. Because of the health of that mother, that medical judgment had to be made.

Can you imagine that this legislation then adds to the provisions, that they would then imprison and fine, make criminal the physician who had to do the decision or make the judgment based upon the Hippocratic oath in order to save the life and/or in this instance, rather, to do this without the governance of this particular legislation. In this instance, it would be if the physician made the judgment on the basis of saving the health of the mother.

We can do better in this body. This is not a question of stopping abortions. It is not judged that. It is a medical procedure. I ask my colleagues to vote ''no'' on the rule.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Let me thank my colleague from the Committee on Rules for yielding me this time.

Mr. Speaker, first I rise in support of the ban and this rule. As most of you know, I never come to the floor to speak on an abortion-related issue. Under normal circumstances, I do not believe this is an issue or the business of government. It is a woman's business, a medical business, a family business, a moral business. But it is not government's business. And that also means no taxpayer money for abortions. I make an exception to this bill today, because it involves a medical procedure that the American Medical Association itself says is unnecessary and it is unnecessarily cruel.

We just heard from the gentlewoman from Florida (Ms. ROS-LEHTINEN) how cruel and how painful this procedure is. This procedure is used primarily in late-term abortions, when there is absolutely no question about the viability of the fetus. It involves the partial delivery of what clearly is a viable fetus, and that, by any standard, should amount to murder.

Regardless of anyone's position on the general issue of abortion rights, I find it incredible that anyone could condone such an abhorrent procedure, particularly one that is by no means an exclusive medical remedy.

I urge my colleagues to support this rule, and I urge them to support the ban as most Americans do. There is no reason for this procedure, there are other options than this procedure, and I think we need to stand up and recognize the life of the unborn deserves merit and consideration on this floor today.

Ms. SLAUGHTER. Mr. Speaker, I think Congress should also stand up for the rights of women and their right to live.

Mr. Speaker, I yield 3½ minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I strongly oppose late-term abortions, but I believe, like many Americans, that when the health of the mother is at risk, that is a decision that should be made by a woman and her doctor and not by a bunch of politicians in Washington, D.C.

Mr. Speaker, I am sad to say that this rule is shameful and this bill is a false promise. I do find it interesting that those supporting this rule and this bill keep quoting the American Medical Association. I do not know if they just did not want to hear it or if they refuse to accept it. The organization they are quoting opposes this legislation.

Why do I say this rule is shameful? First, it ensures that when this bill passes today, were it then to become law, no bill will ever have the impact of law or save one baby because the Supreme Court has made it absolutely clear, not just once but on five different occasions in their 2000 decision, that you must have a health exemption when the mother's health is at risk.

So maybe Ralph Reed was right when he said this is the political silver bullet, the partial-birth abortion bill, but what a tragedy.

The proponents of this bill and this rule are forcing a false promise upon the American people, a promise that will not help one child. This rule is shameful because it denies Members of this House a vote of conscience. I respect your conscience. I respect your right to express your conscience. You have no right on an issue of this magnitude, of such deep conscience for so many Members, no one in this House has that right to deny us the right to a vote, to a vote for an amendment that the Supreme Court would then interpret is making this bill constitutional.

I tried to offer an amendment to the Committee on Rules, it was not really radical, it was a bill I helped pass in 1987 in Texas to outlaw not one late-term abortion procedure which is not going to save a single baby, it would outlaw all late-term abortion procedures but with a health exception. For 15 years, the constitutionality of that Texas law has not been challenged. I would note that during the time that President Bush was then Governor of Texas, there was no effective effort or to my knowledge even serious effort made to change that bill. It was constitutional and it worked.

Supreme Court Justice O'Connor has made it very clear, in case anybody does not understand English, that if you do not have a health exemption in this bill, it will not ever have the impact of being law. Let me quote her from the court case of June 28 of 2000:

''First, the Nebraska statute is inconsistent because it lacks an exception for those instances when the banned procedure is necessary to preserve the health of the mother.''

In case that is not clear enough for the supporters of this rule and this unconstitutional bill, she then goes on to outline all that a legislative body has to do to make such a bill constitutional. Just add the words ''where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.'' That would be the circumstance for an exception.

The people who should be upset at this bill should be pro-life Americans all across this country who have been deluded by this unconstitutional bill into thinking it is going to save one child. Had this rule allowed us to vote on a constitutionally acceptable amendment for a health exception, we actually could do some good. What a shame.

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

I would just like to remind the House that the minority does have a motion to recommit on every bill that we do. Mr. Solomon had said that he wanted to be sure that the minority always had a motion to recommit. I say that just for the record.

Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Speaker, I rise today in support of H.R. 4965, the partial-birth abortion ban, and its rule as well. Partial-birth abortion is a cruel and painful procedure. In this method the child is partially delivered. Only the baby's head is inside the mother's body. At this point the doctor inserts scissors into the baby's skull and removes the baby's brains with suction.

It is a medical fact that unborn infants can feel the pain of scissors puncturing their skull. In fact, the baby's perception of pain is even more intense at this early stage of life. A practice such as this has no place in the medical field. Even the physician credited with developing this procedure agrees that no medical situation exists to warrant the use of partial-birth abortion.

Aside from being cruel to the infant, it poses a serious health risk for the mother, including complications with future pregnancies and even death. We must protect these precious lives, these precious infants, who are only moments away from their first breath.

I urge my colleagues in joining me in voting to ban partial-birth abortion and to support the rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 4½ minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. I thank the gentlewoman for yielding me this time.

Mr. Speaker, this bill before us will not prohibit any abortions. It prohibits a procedure. The abortion will still take place using another procedure, and I will not inflame the debate by describing in detail the alternative procedures that may be used. But I will point out that Nebraska had a law banning this procedure, the so-called partial-birth abortion. Nearly 2 years ago, the United States Supreme Court held in Stenberg v. Carhart that the law was unconstitutional.

The Supreme Court said many times in its majority opinion and other times in concurring opinions that in order to make the partial-birth abortion ban constitutional, the law must contain a health exception to allow the procedure when it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. That is what five Supreme Court justices said is necessary to make the bill constitutional. All five of those justices are still on the Supreme Court.

In the Stenberg case, the court said, ''The question before us is whether Nebraska's statute making criminal the performance of a partial-birth abortion violates the Constitution as interpreted by Planned Parenthood v. Casey and Roe v. Wade. We conclude that it does for at least two independent reasons.'' They said the first reason was that the law lacks an exception for the preservation of the health of the mother. The Stenberg court reminded us what a long line of cases has held, that, quote, subsequent to viability, the State in promoting its interest in the potentiality of human life may if it chooses regulate, and even proscribe abortion, except, and they put this in italics, when it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother, unquote.

It goes on to say in quotes, in case we did not understand it in italics, that the governing standard requires an exception—listen up—where it is necessary in the appropriate medical judgment for the preservation of the life or health of the mother.

The court continues talking about the health exception by saying, quote, Justice Thomas said that the cases just cited limit the principle to situations where the pregnancy itself creates a threat to health. The court says, ''He is wrong. The cases cited, reaffirmed in Casey, recognize that a State cannot subject women's health to significant health risks both in that context, and also where State regulations force women to use riskier methods of abortion. Our cases have repeatedly invalidated statutes that, in the process of regulating the methods of abortion, imposed significant health risks.

They make clear that a risk to a woman's health is the same whether it happens to arise from regulating a particular method of abortion or from barring abortion entirely.''

Finally, the court says, ''Nebraska has not convinced us that a health exception is never medically necessary to preserve the health of the mother.'' It continues by saying, ''A statute that altogether forbids the partial-birth abortion creates a significant health risk. The statute consequently must contain a health exception.''

And in case we did not get it, the court said again, ''By no means must a State grant physicians unfettered discretion in their selection of a method of abortion but where substantial medical authority supports the proposition

that banning a particular abortion procedure could endanger the woman's health, Casey requires the statute to include a health exception when the procedure is''—listen up—''necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. Requiring such an exception in this case is no departure from Casey, but simply a straightforward application of its holding.''

Mr. Speaker, whatever our views are on the underlying issue of abortion, we ought to read the decision and apply the law. The Supreme Court, in one decision, said at least five times that a health exception must be included for the statute to be constitutional. Furthermore, they put ''necessary, in appropriate medical judgment, for the preservation of the life or health of the mother'' in italics and quotation marks.

This rule that we are considering proposes a bill without a health exception. It prohibits amendments that would create a health exception. The court has made it clear that the health exception is required and, therefore, any bill that passes without the health exception will be found unconstitutional. Thus, this rule which does not allow the required health exception should be defeated.

□ 1515

Mrs. MYRICK. Mr. Speaker, I reserve my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentlewoman for yielding me time and for her tremendous leadership on this issue and so many others.

Mr. Speaker, this bill is nothing more than a cruel ploy to prevent women from obtaining the safest and best medical care from their doctors. What is more, it is unconstitutional.

This bill is no different from the Nebraska law struck down by the Supreme Court 2 years ago in Stenberg v. Carhart. It has the same flaws and the same dangers. Like the Nebraska law, this bill's broad language bans the safest and most common form of abortion used in second trimester, posing an undue burden on a woman's right to choose. It has no exception for preserving a woman's health. It ties the hands of medical practitioners, condemning women to less safe procedures that may put their lives at risk.

Sandra Day O'Connor's opinion was very clear that government ''may promote, but not endanger, a woman's health when it regulates the methods of abortion.'' The decision went on to say, ''Where a significant body of medical opinion believes a procedure may bring with it greater safety for some patients and explains the medical reasons supporting that view, neither Congress nor the States may ban the procedure.''

The Supreme Court has said neither Congress nor the States may ban the procedure, so if we already know that this bill is unconstitutional, then why are we here? I believe it is to give the anti-choice forces one more chance to spread the lie that this is about a particular procedure at a particular phase of pregnancy.

So let us set the record straight. This ban covers many procedures and all phases of pregnancy. This is not about late-term abortions, this is not about the D&E procedure, this is about outlawing choice, pure and simple. It is an extreme measure that sacrifices women's health to further an ideological agenda that opposes choice.

Mr. Speaker, I ask my colleagues to join me in voting against this deceptive attempt to deny women access to choice. I urge a no vote on this rule and the underlying bill, and I urge this body to follow the words of Sandra Day O'Connor and the majority of the members of the Supreme Court that have already ruled that the bill before us is unconstitutional.

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

Mr. Speaker, I just want to comment that, once again, an unconstitutional measure which we recently did, too, that was passed by this House was to prohibit young women from crossing State lines in the United States. I have no idea who is going to police that or whether we are going to put borders up at every State to make sure people do not cross it ''illegally,'' according to the Congress. Obviously that is not going to ever become law. There is no way we can keep American citizens from going from one State to another.

Once again we try this, which is not a serious attempt to do much except make points. I urge a no vote on this rule.

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

Mrs. MYRICK. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

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

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

The Sergeant at Arms will notify absent Members.

The vote on this rule will be followed by a 5-minute vote on H.R. 5120 and a 5-minute vote on House Concurrent Resolution 188.

The vote was taken by electronic device, and there were—yeas 248, nays 177, not voting 9, as follows:

[Roll No. 340]

YEAS—248

Aderholt
Akin
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Berry
Biggert
Bilirakis
Blunt
Boehner
Bonilla
Bono
Boozman
Borski
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
Kirk
Kolbe
LaFalce
LaHood
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Mascara
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Norwood
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stenholm
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—177

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Bishop
Blagojevich
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Conyers
Coyne

Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gilman
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Horn
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Armey
Bonior
Condit
Knollenberg
Northup
Pryce (OH)
Stearns
Traficant
Whitfield

□ 1542

Messrs. LARSON of Connecticut, DEFAZIO, KLECZKA, GILMAN, and SIMMONS, and Ms. PELOSI changed their vote from ''yea'' to ''nay.''

Mr. PAUL and Mr. CRAMER changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOMENT OF SILENCE IN MEMORY OF OFFICER JACOB B. CHESTNUT AND DETECTIVE JOHN M. GIBSON

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to the Chair's announcement of earlier today, the House will now observe a moment of silence in memory of Officer Jacob J. Chestnut and Detective John M. Gibson.

Will all present, both in the gallery and on the floor, please rise for a moment of silence.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that the vote on House Concurrent Resolution 188 will be postponed until later today.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore. The pending business is the question on the passage of the bill (H.R. 5120) on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

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

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

This will be a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 308, nays 121, not voting 5, as follows:

[Roll No. 341]

YEAS—308

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Baca
Baird
Baldacci
Ballenger
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capps
Cardin
Castle
Chambliss
Clay
Clayton
Clyburn
Combest
Cooksey
Cox
Coyne
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Granger
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kingston
Kirk
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (OK)
Lynch
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mink
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Pickering
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schakowsky
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Sununu
Sweeney
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—121

Akin
Bachus
Baker
Baldwin
Barcia
Barr
Barrett
Barton
Berry
Boswell
Brady (TX)
Bryant
Capito
Capuano
Carson (IN)
Carson (OK)
Chabot
Clement
Coble
Collins
Conyers
Costello
Crane
Cubin
Culberson
Davis (CA)
Davis, Jo Ann
Deal
DeMint
Deutsch
Diaz-Balart
Doggett
Duncan
Etheridge
Everett
Flake
Foley
Forbes
Ford
Fossella
Goode
Goodlatte
Graham
Graves
Green (TX)
Gutknecht
Hall (TX)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Hostettler
Inslee
Israel
Jenkins
Johnson (IL)
Jones (NC)
Kerns
Kind (WI)
Kleczka
Kucinich
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Matheson
McInnis
McKinney
Menendez
Mica
Miller, Jeff
Moore
Moran (KS)
Napolitano
Norwood
Otter
Oxley
Paul
Pence
Peterson (MN)
Petri
Phelps
Pitts
Platts
Pomeroy
Ramstad
Riley
Roemer
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Schaffer
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shows
Slaughter
Smith (WA)
Strickland
Stump
Stupak
Sullivan
Tancredo
Tanner
Taylor (MS)
Terry
Thune
Thurman
Tiberi
Toomey
Turner
Weldon (FL)
Wilson (SC)

NOT VOTING—5

Bonior
Condit
Knollenberg
Stearns
Traficant

□ 1601

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

Mr. LAMPSON and Mr. RUSH changed their vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARTIAL-BIRTH ABORTION BAN ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 498

adopted earlier today, I call up the bill (H.R. 4965) to prohibit the procedure commonly known as partial-birth abortion, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the H.R. 4965 is as follows:

H.R. 4965

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 ''Partial-Birth Abortion Ban Act of 2002''.

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion—an abortion in which a physician delivers an unborn child's body until only the head remains inside the womb, punctures the back of the child's skull with a sharp instrument, and sucks the child's brains out before completing delivery of the dead infant—is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

(2) Rather than being an abortion procedure that is embraced by the medical community, particularly among physicians who routinely perform other abortion procedures, partial-birth abortion remains a disfavored procedure that is not only unnecessary to preserve the health of the mother, but in fact poses serious risks to the long-term health of women and in some circumstances, their lives. As a result, at least 27 States banned the procedure as did the United States Congress which voted to ban the procedure during the 104th, 105th, and 106th Congresses.

(3) In Stenberg v. Carhart, 530 U.S. 914, 932 (2000), the United States Supreme Court opined ''that significant medical authority supports the proposition that in some circumstances, [partial birth abortion] would be the safest procedure'' for pregnant women who wish to undergo an abortion. Thus, the Court struck down the State of Nebraska's ban on partial-birth abortion procedures, concluding that it placed an ''undue burden'' on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the ''health'' of the mother.

(4) In reaching this conclusion, the Court deferred to the Federal district court's factual findings that the partial-birth abortion procedure was statistically and medically as safe as, and in many circumstances safer than, alternative abortion procedures.

(5) However, the great weight of evidence presented at the Stenberg trial and other trials challenging partial-birth abortion bans, as well as at extensive Congressional hearings, demonstrates that a partial-birth abortion is never necessary to preserve the health of a woman, poses significant health risks to a woman upon whom the procedure is performed, and is outside of the standard of medical care.

(6) Despite the dearth of evidence in the Stenberg trial court record supporting the district court's findings, the United States Court of Appeals for the Eighth Circuit and the Supreme Court refused to set aside the district court's factual findings because, under the applicable standard of appellate review, they were not ''clearly erroneous''. A finding of fact is clearly erroneous ''when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed''. Anderson v. City of Bessemer City, North Carolina, 470 U.S. 564, 573 (1985). Under this standard, ''if the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently''. Id. at 574.

(7) Thus, in Stenberg, the United States Supreme Court was required to accept the very questionable findings issued by the district court judge—the effect of which was to render null and void the reasoned factual findings and policy determinations of the United States Congress and at least 27 State legislatures.

(8) However, under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the ''clearly erroneous'' standard. Rather, the United States Congress is entitled to reach its own factual findings—findings that the Supreme Court accords great deference—and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution, and draws reasonable inferences based upon substantial evidence.

(9) In Katzenbach v. Morgan, 384 U.S. 641 (1966), the Supreme Court articulated its highly deferential review of Congressional factual findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965. Regarding Congress' factual determination that section 4(e) would assist the Puerto Rican community in ''gaining nondiscriminatory treatment in public services,'' the Court stated that ''[i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations. . . . It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case.''. Id. at 653.

(10) Katzenbach's highly deferential review of Congress's factual conclusions was relied upon by the United States District Court for the District of Columbia when it upheld the ''bail-out'' provisions of the Voting Rights Act of 1965, (42 U.S.C. 1973c), stating that ''congressional fact finding, to which we are inclined to pay great deference, strengthens the inference that, in those jurisdictions covered by the Act, state actions discriminatory in effect are discriminatory in purpose''. City of Rome, Georgia v. U.S., 472 F. Supp. 221 (D. D. Col. 1979) aff'd City of Rome, Georgia v. U.S., 446 U.S. 156 (1980).

(11) The Court continued its practice of deferring to congressional factual findings in reviewing the constitutionality of the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992. See Turner Broadcasting System, Inc. v. Federal Communications Commission, 512 U.S. 622 (1994) (Turner I) and Turner Broadcasting System, Inc. v. Federal Communications Commission, 520 U.S. 180 (1997) (Turner II). At issue in the Turner cases was Congress' legislative finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be ''seriously jeopardized''. The Turner I Court recognized that as an institution, ''Congress is far better equipped than the judiciary to 'amass and evaluate the vast amounts of data' bearing upon an issue as complex and dynamic as that presented here''. 512 U.S. at 665–66. Although the Court recognized that ''the deference afforded to legislative findings does 'not foreclose our independent judgment of the facts bearing on an issue of constitutional law,' '' its ''obligation to exercise independent judgment when First Amendment rights are implicated is not a license to reweigh the evidence de novo, or to replace Congress' factual predictions with our own. Rather, it is to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.'' Id. at 666.

(12) Three years later in Turner II, the Court upheld the ''must-carry'' provisions based upon Congress' findings, stating the Court's ''sole obligation is 'to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.' '' 520 U.S. at 195. Citing its ruling in Turner I, the Court reiterated that ''[w]e owe Congress' findings deference in part because the institution 'is far better equipped than the judiciary to ''amass and evaluate the vast amounts of data'' bearing upon' legislative questions,'' id. at 195, and added that it ''owe[d] Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power.'' Id. at 196.

(13) There exists substantial record evidence upon which Congress has reached its conclusion that a ban on partial-birth abortion is not required to contain a ''health'' exception, because the facts indicate that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care. Congress was informed by extensive hearings held during the 104th and 105th Congresses and passed a ban on partial-birth abortion in the 104th, 105th, and 106th Congresses. These findings reflect the very informed judgment of the Congress that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care, and should, therefore, be banned.

(14) Pursuant to the testimony received during extensive legislative hearings during the 104th and 105th Congresses, Congress finds and declares that:

(A) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure. Those risks include, among other things: an increase in a woman's risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position, a procedure which, according to a leading obstetrics textbook, ''there are very few, if any, indications for . . . other than for delivery of a second twin''; and a risk of lacerations and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

(B) There is no credible medical evidence that partial-birth abortions are safe or are safer than other abortion procedures. No controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures. Indeed, unlike other more commonly used abortion procedures, there are currently no medical schools that provide instruction on abortions that

include the instruction in partial-birth abortions in their curriculum.

(C) A prominent medical association has concluded that partial-birth abortion is ''not an accepted medical practice,'' that it has ''never been subject to even a minimal amount of the normal medical practice development,'' that ''the relative advantages and disadvantages of the procedure in specific circumstances remain unknown,'' and that ''there is no consensus among obstetricians about its use''. The association has further noted that partial-birth abortion is broadly disfavored by both medical experts and the public, is ''ethically wrong,'' and ''is never the only appropriate procedure''.

(D) Neither the plaintiff in Stenberg v. Carhart, nor the experts who testified on his behalf, have identified a single circumstance during which a partial-birth abortion was necessary to preserve the health of a woman.

(E) The physician credited with developing the partial-birth abortion procedure has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome and, thus, is never medically necessary to preserve the health of a woman.

(F) A ban on the partial-birth abortion procedure will therefore advance the health interests of pregnant women seeking to terminate a pregnancy.

(G) In light of this overwhelming evidence, Congress and the States have a compelling interest in prohibiting partial-birth abortions. In addition to promoting maternal health, such a prohibition will draw a bright line that clearly distinguishes abortion and infanticide, that preserves the integrity of the medical profession, and promotes respect for human life.

(H) Based upon Roe v. Wade, 410 U.S. 113 (1973) and Planned Parenthood v. Casey, 505 U.S. 833 (1992), a governmental interest in protecting the life of a child during the delivery process arises by virtue of the fact that during a partial-birth abortion, labor is induced and the birth process has begun. This distinction was recognized in Roe when the Court noted, without comment, that the Texas parturition statute, which prohibited one from killing a child ''in a state of being born and before actual birth,'' was not under attack. This interest becomes compelling as the child emerges from the maternal body. A child that is completely born is a full, legal person entitled to constitutional protections afforded a ''person'' under the United States Constitution. Partial-birth abortions involve the killing of a child that is in the process, in fact mere inches away from, becoming a ''person''. Thus, the government has a heightened interest in protecting the life of the partially-born child.

(I) This, too, has not gone unnoticed in the medical community, where a prominent medical association has recognized that partial-birth abortions are ''ethically different from other destructive abortion techniques because the fetus, normally twenty weeks or longer in gestation, is killed outside of the womb''. According to this medical association, the '' 'partial birth' gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body''.

(J) Partial-birth abortion also confuses the medical, legal, and ethical duties of physicians to preserve and promote life, as the physician acts directly against the physical life of a child, whom he or she had just delivered, all but the head, out of the womb, in order to end that life. Partial-birth abortion thus appropriates the terminology and techniques used by obstetricians in the delivery of living children—obstetricians who preserve and protect the life of the mother and the child—and instead uses those techniques to end the life of the partially-born child.

(K) Thus, by aborting a child in the manner that purposefully seeks to kill the child after he or she has begun the process of birth, partial-birth abortion undermines the public's perception of the appropriate role of a physician during the delivery process, and perverts a process during which life is brought into the world, in order to destroy a partially-born child.

(L) The gruesome and inhumane nature of the partial-birth abortion procedure and its disturbing similarity to the killing of a newborn infant promotes a complete disregard for infant human life that can only be countered by a prohibition of the procedure.

(M) The vast majority of babies killed during partial-birth abortions are alive until the end of the procedure. It is a medical fact, however, that unborn infants at this stage can feel pain when subjected to painful stimuli and that their perception of this pain is even more intense than that of newborn infants and older children when subjected to the same stimuli. Thus, during a partial-birth abortion procedure, the child will fully experience the pain associated with piercing his or her skull and sucking out his or her brain.

(N) Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns, but all vulnerable and innocent human life, making it increasingly difficult to protect such life. Thus, Congress has a compelling interest in acting—indeed it must act—to prohibit this inhumane procedure.

(O) For these reasons, Congress finds that partial-birth abortion is never medically indicated to preserve the health of the mother; is in fact unrecognized as a valid abortion procedure by the mainstream medical community; poses additional health risks to the mother; blurs the line between abortion and infanticide in the killing of a partially-born child just inches from birth; and confuses the role of the physician in childbirth and should, therefore, be banned.

SEC. 3. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

''CHAPTER 74—PARTIAL-BIRTH ABORTIONS

''Sec.

''1531. Partial-birth abortions prohibited.

''§ 1531. Partial-birth abortions prohibited

''(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the enactment.

''(b) As used in this section—

''(1) the term 'partial-birth abortion' means an abortion in which—

''(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

''(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

''(2) the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

''(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

''(2) Such relief shall include—

''(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

''(B) statutory damages equal to three times the cost of the partial-birth abortion.

''(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

''(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

''(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

''74. Partial-birth abortions ..... 1531''.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 498, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 1 hour.

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. 4965, 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 6 minutes.

Mr. Speaker, this bill, the Partial-Birth Abortion Ban Act of 2002, would prohibit the gruesome procedure of partial-birth abortion that unfortunately we are now all too familiar

with. An abortionist who violates this ban will be subject to fines, a maximum of 2 years imprisonment, or both. This bill includes an exception for those situations in which a partial-birth abortion is deemed necessary to save the life of the mother.

A moral, medical, and ethical consensus exists that partial-birth abortion is an unsafe and inhumane procedure that is never medically necessary and which should be prohibited. Contrary to the claims of partial-birth abortion advocates, this type of abortion remains an untested, unproven, and potentially dangerous procedure that has never been embraced by the medical profession.

As a result, Congress has voted to ban partial-birth abortion during the 104th, 105th, and 106th Congresses, and at least 27 states enacted bans on the procedure. Unfortunately the two Federal bans that reached President Clinton's desk were promptly vetoed.

In June 2000, the Supreme Court struck down Nebraska's partial-birth abortion ban, which was similar but not identical to bans previously passed by the Congress. The Court concluded that Nebraska's ban did not clearly distinguish the prohibited procedure from other more commonly performed second trimester abortion procedures. The Court also held, on the basis of the highly disputed factual findings of the district court, that the law was required to include an exception for partial-birth abortions deemed necessary to preserve the health of a woman.

This bill has a new definition of partial-birth abortion. It addresses the Court's first concern by clearly and unambiguously defining the prohibited procedure. It also addresses the Court's second objection to the Nebraska law by including extensive congressional findings based upon medical evidence received in a series of legislative hearings that, contrary to the factual findings of the district court in Stenberg, partial-birth abortion is never necessary, never medically necessary to preserve a woman's health, poses serious risks to a woman's health, and is in fact below the requisite standard of medical care.

The bill's lack of a health exception is based upon Congress's factual determination that partial-birth abortion is a dangerous procedure that does not serve the health of any woman. The Supreme Court has a long history, particularly in the area of civil rights, of deferring to Congress's factual conclusions. In doing so, the Court has recognized that Congress's institutional structure makes it far better suited than the judiciary to assess facts upon which it will make policy determinations. As Chief Justice Rehnquist has stated, the Court must be "particularly careful not to substitute its judgment of what is desirable for that of Congress or its own evaluation of evidence for a reasonable evaluation by the Legislative Branch." Thus in Katzenback v. Morgan, while addressing section 4(e) of the Voting Rights Act of 1965, the Court deferred to Congress's factual determination that section 4(e) would assist the Puerto Rican community in "gaining nondiscriminatory treatment in public."

Similarly, in Fullilove v. Klutznick, when reviewing the minority business enterprise provision of the Public Works Employment Act of 1977, the Court repeatedly cited and deferred to the legislative record and factual conclusions of Congress to uphold the provisions as an appropriate exercise of congressional authority. Based upon the Supreme Court precedent and separation of powers principles, I am confident that H.R. 4965 will withstand judicial scrutiny.

Mr. Speaker, it also is important for this body to understand that in addition to the health risk to women who undergo the partial-birth abortion procedure, it is particularly brutal and inhumane to the nearly-born. Virtually all of the infants upon whom this procedure is performed are alive and feel excruciating pain.

A child upon whom a partial-birth abortion is being performed is not significantly affected by the medication administered to the mother during the performance of the procedure. As creditable testimony received by the Subcommittee on the Constitution confirms, current methods for providing maternal anesthesia during partial-birth abortions are unlikely to prevent the experience of pain and stress that the child will feel during the procedure. Thus, claims that a child is almost certain to be either dead or unconscious and near death prior to the commencement of the partial-birth procedure are unsubstantiated.

H.R. 4965 enjoys overwhelming support from Members of both parties, precisely because of the barbaric nature of the procedure and the dangers it poses to women who undergo it. Additionally, the American Medical Association has recognized that partial-birth abortions are either ethically different from other destructive abortion techniques because the fetus, normally 20 weeks or longer in gestation, is killed out of the woman. Thus, partial birth gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body.

Implicitly approving such a brutal and unjustifiable procedure by choosing not to prohibit it will further coarsen society to humanity of all vulnerable and innocent human life. Thus, Congress has a compelling interest in acting to prohibit this procedure.

Mr. NADLER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I want to thank the gentleman from New York (Mr. NADLER), the ranking member of the subcommittee, for managing the bill, and I would like to welcome everyone back to yet another debate since 1995 on partial-birth abortion. We have lost track of how many times this has come to the floor, been to the committee, been to the subcommittee, and is here again.

I will spare my colleagues the list of issues, but in the last 2 days, before we go on our summer recess, of legislation that is waiting by the American people to be dealt with, why and how this measure got to the floor is one of the great mysteries of the national legislative process, but we are here again, and so we have to go through this again.

It does not matter to some that the great weight of medical opinion is against this legislation that would ban partial-birth abortion, which is, by the way, very rarely used, and that is why the American Medical Association is not in support of this legislation.

It is also why the American College of Obstetricians and Gynecologists are opposed to the bill. It is also why the American Public Health Association, the American Nurses Association, the American Medical Women's Association, the California Medical Association, the Physicians for Reproductive Choice and Health, the American College of Nurse Practitioners, the American Medical Students Association, the Association of Reproductive Health Professionals, the Association of Schools of Public Health, the Association of Women's Psychiatrists, the National Asian Women's Health Organization, the National Association of Nurse Practitioners and Reproductive Health, the National Black Women's Health Project, the National Latina Institute for Reproductive Health, and the Rhode Island Medical Society are all against this bill.

They do not understand medicine or the procedures that are debated here? Maybe. They are inhumane or insensitive to their responsibilities as medical doctors? Maybe. But I doubt that seriously.

This measure is now being brought during the 7th year for an infinite number of times and the result always comes out the same.

It is important, because there is going to be maybe some debate on it. We went through this before, but the American Medical Association has stated that they are not in support of this bill. I have a letter here to that effect and would be happy to show it to anyone who is not convinced or needs more encouragement about this matter.

It is important that we realize that there is one major reason that this bill is not supported by these medical associations, and that is that the measure contains no protection for the woman, the mother. There is no exception for the fact that this procedure may save the life of the mother.

□ 1615

There is no consideration about that in this legislation. And so, therefore, these medical institutions and associations cannot support this legislation,

and the legislators, for reasons known only to themselves that promote the bill, will not put this provision in the bill.

Now, only last week when this bill came up in the Committee on the Judiciary, the gentlewoman from Wisconsin introduced an amendment to cure this defect that has been repeated by the Supreme Court every time this measure goes to the Supreme Court. It has been repeated by circuit courts wherever the cases have occurred; it has been repeated in State courts wherever it has occurred; that unless there is an exception to this ban for the safety and the health of the mother, this bill cannot stand muster. Even if it passes the House and the Senate, the Supreme Court still will tell us the same thing; that we must have an exception for the life and health and safety of the mother, or this provision is not valid.

Now, is that so difficult to understand? It has been repeated for years. It has been stated in nonlegal, simple English, and yet the authors of this bill consistently refuse, as of last week they refused, as of today, if we could amend it, and we cannot, they would refuse. Even if we went to conference and we asked to put it in, I presume they would continue to refuse. Why, I cannot offer my colleagues any logical reasons.

But, Mr. Speaker, since there is no chance of this ever becoming law, I wonder why, if my colleagues want it into law so badly, they do not accede to the existing court decisions that have never varied on protecting the mother's life in the event a partial-birth abortion would save an endangered mother's life. And so I urge once again that the majority of the Members of this body reject the measure that is before us.

Mr. SENSENBRENNER. Mr. Speaker, I yield 6 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time, and I wish to respond to something the gentleman from Michigan said relative to a health exception and why a specific health exception is not in there.

No matter how narrowly drafted a health exception might be, it gives the abortionist unfettered discretion in determining when a partial-birth abortion might be performed, and abortionists have demonstrated that they can justify any abortion on this ground. Dr. Warren Hearn of Colorado, for example, the author of the Standard Textbook on Abortion Procedures, who also performs many third-trimester abortions, has stated, and I quote, ''I would certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health.'' It is unlikely, then, that a law that includes such an exception would ban a single partial-birth abortion.

Partial-birth abortion, after all, is the termination of the life of a living baby just seconds before it takes its first breath outside the womb. This procedure is violent, it is gruesome, it is, in the words of one of the Senators from New York some years ago, a Democratic Senator, I might add, it is infanticide.

Now, proponents of this procedure will tell a different story today. They want us to believe it is about politics or ideology. They will do anything to divert attention from the cold, hard facts about partial-birth abortion. I would remind everyone that we have seen these same tactics for many years, and that the misinformation touted by the abortion lobby was exposed as blatant propaganda back in 1997.

My colleagues might recall that the executive director of the National Coalition of Abortion Providers admitted that he ''lied through his teeth'' when he stated that partial-birth abortions were rarely performed. He went on to admit that the procedure is most often performed on healthy mothers who are about 5 months along in the pregnancy, and they are performed with healthy fetuses.

So as we debate this compassionate bill today, I ask that my colleagues remember the truth. Partial-birth abortion remains an untested, unproven, and dangerous procedure that has never been embraced by the mainstream medical community.

I would like to take a few minutes to discuss this legislation in a little more detail. Two years ago, in the Stenberg v. Carhart case, the United States Supreme Court struck down Nebraska's partial-birth abortion ban, which was similar but not identical to bans passed by previous Congresses. To address the constitutional concerns raised by the majority in Stenberg, our legislation differs from previous proposals in two areas:

First, the bill contains a new, more precise definition of the prohibited procedure that, as expert medical testimony received by the Subcommittee on the Constitution indicated, clearly distinguishes it from more commonly performed abortion procedures.

Second, our legislation addresses the Stenberg majority's opinion that the Nebraska ban placed an undue burden on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the health of the mother.

The Stenberg court based its conclusions on the trial court's factual findings regarding the relative health and safety benefits of partial-birth abortions, findings which were highly disputed. Under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the so-called clearly erroneous standard. Rather, as the Supreme Court explained in Turner Broadcasting System, Inc. v. Federal Communications System, the United States Congress is entitled to reach its own factual findings, findings that the Supreme Court consistently relies upon and accords great deference, and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution and draws reasonable inferences based upon substantial evidence.

The first section of our legislation contains Congress's extensive factual findings that, based upon extensive medical evidence compiled during congressional hearings, partial-birth abortions pose serious risks to women's health. So the partial-birth abortion itself poses a serious medical risk on a woman's health. It is never medically indicated, and it is outside the standards of medical care in this country.

In fact, the district court's factual findings in the Stenberg case are inconsistent with the overwhelming weight of authority regarding the safety and medical necessity of partial-birth abortion. According to the American Medical Association, and I quote, ''There is no consensus among obstetricians about its use, and it has never been subject to even a minimal amount of the normal medical practice development,'' and ''It is not in the medical textbooks.'' That is according to the American Medical Association.

In addition, no controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are safe or superior in any way to established abortion procedures.

Leading proponents of partial-birth abortion also acknowledge it poses additional health risks because, among other things, the procedure requires a high degree of skill to pierce the infant's skill with a sharp instrument in a blind procedure. Dr. Warren Hearn, the author of the Standard Textbook on Abortion Procedures, who also performs many of these types of procedures, has testified that he ''had very serious reservations about this procedure, and it is definitely not the safest.''

I would strongly encourage my colleagues in the House to no longer make available in this country this barbaric, inhumane practice of partial-birth abortion.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I appreciate the gentleman from Ohio's presentation. Could he explain to me why over a dozen of the medical organizations and associations that I have cited have all come out against this measure? What is the gentleman's answer to their statements?

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

Mr. CONYERS. I yield to the gentleman from Ohio.

Mr. CHABOT. Mr. Speaker, if I had time, I could list all the organizations in favor of this legislation. But just using the AMA, for example, they have sent us letters indicating they are opposed to this legislation, but what they do not like at this point is the fact a doctor could go to jail.

Mr. CONYERS. Mr. Speaker, reclaiming my time, I would ask the gentleman, what about the other dozen organizations? Does the gentleman have any reason to think why they would be opposed to this legislation?

Mr. CHABOT. If the gentleman will continue to yield, using the AMA again, for example, they do not like the fact that abortionists would have to go to jail if caught.

Mr. CONYERS. I am talking about the other dozen organizations outside the AMA that I named. Why are they opposed to the bill?

Mr. CHABOT. I would be happy to provide a long list of organizations that are in favor of this legislation. Be happy to trade lists with the gentleman. This is an inhumane, barbaric, brutal procedure which ought to be banned.

Mr. CONYERS. That is an inadequate response.

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

Mr. Speaker, I rise once again in opposition to this bill. We have been through this debate often enough to know that we will not find the term partial-birth abortion in any medical textbooks. There are procedures that we will find in medical textbooks, but the authors of this legislation would prefer to use the language of propaganda rather than the language of medical science.

This bill, as written, fails every test the Supreme Court has laid down for what might or might not be a constitutional regulation on abortion. It reads almost as if the authors went through the Supreme Court's recent decision in Stenberg v. Carhart and went out of their way to thumb their noses at the Supreme Court, and especially at Justice Sandra Day O'Connor, who is generally viewed as a swing vote on such matters and who wrote a concurring opinion stating specifically what would be needed to uphold a statute.

Unless the authors think that when the court has made repeated and clear statements over the years of what the Constitution requires in this area they were just pulling our leg, this bill has to be facially and obviously unconstitutional.

Now, if people wanted to write a bill that said we are going to ban late-term abortions, which this bill is sometimes referred to, although incorrectly, if they wanted to write a bill that said we are going to ban late-term abortions after viability, and we are going to include in the bill an exception for when the abortion is necessary for the life or health of the mother, they could do that. It would be a constitutional bill and Members could debate it in good conscience.

But they have chosen not to do that. They have chosen to write a facially unconstitutional bill that they know perfectly well is unconstitutional, despite all the nonsense we have heard today; that they know will never see the light of day because it is unconstitutional, and the Supreme Court has given us a specific precise recipe of what a constitutional bill would look like.

So this bill is political propaganda. It gives people something to go home and talk about, but falsely talk about, because it is clearly unconstitutional. The bill does not contain a life and health exception, which the Supreme Court has repeatedly said is necessary throughout pregnancy, even post viability.

I know that some of my colleagues may not like this rule. The gentleman from Ohio (Mr. CHABOT) talked about why he did not like a health exception. But there it is in the Constitution as interpreted by the Supreme Court, whether we like it or not. We have to put it in a bill if we want the bill to be constitutional.

□ 1630

Even the Ashcroft Justice Department, in its brief defending a similar Ohio statute, has recently acknowledged that a health exception is required by the Constitution. I may disagree with Mr. Ashcroft's Justice Department on whether the Ohio statute adequately protects women's health, at least Attorney General Ashcroft and his Department acknowledge that the law requires a health exception, requires that protection if it is not going to be factually unconstitutional.

This bill purports to solve this problem with findings; 15 of the 18 pages of the bill are findings, congressional findings of fact. Congressional findings of medical fact, as if we are expert doctors here, all of us. If there is one thing that this activist Supreme Court that we have now has made clear, it is that it is not very deferential to Congress' findings of fact.

Congress can declare anything it wants. It can declare the moon is made of green cheese, but it does not make it factual and it does not make the courts bound to accept anything that we say at face value simply because we say so.

While I realize that many of the proponents of this bill view all abortions as tantamount to infanticide, that is their view. It is not a mainstream view, and it is not the view of the Supreme Court of the United States. If the proponents of this bill wanted to deal with post-viability abortions where a woman's life and health are not in jeopardy, they could write a bill dealing with that issue. Forty-one States have such laws, including my own State of New York.

Members should know better than to believe that this activist conservative Supreme Court that we now have, we should know that they do not feel any particular need to defer to Congress. Members should know what comes of Congress ignoring the will of the Supreme Court. Whatever power Congress had under section 5 of the 14th amendment to effectuate the purposes of 14th amendment as a result of Katzenbach v. Morgan, which was cited by the proponents of the bill, and is cited copiously in the bill's findings, I think the more recent Boerne decision of the Supreme Court vastly undercuts those powers. And even if Katzenbach was still fully good law, as I personally wish it were for other reasons, that case empowered Congress only to expand rights under the 14th amendment, not to curtail rights under the 14th amendment.

The Supreme Court has held that the right to choose to have an abortion is a woman's right under the 14th amendment, with some limits that the Supreme Court has recognized; and the Katzenbach decision says those rights can be expanded, but not curtail them. This bill aims to curtail those rights.

Mr. Speaker, we are told that the Supreme Court must defer to congressional fact-finding even if Congress' so-called facts conflict with the preponderance of evidence in litigation before the Court. But the drafters of this bill are wrong. First, it is one of the fundamental tenets of our constitutional structure which establishes three separate branches of the Federal Government that Congress can enact laws, but it cannot decide whether those laws are constitutional. That is exclusively the Supreme Court's role.

I realize that one of the members of the Committee on the Judiciary said that the Supreme Court wrongly decided Marbury v. Madison, but for 200 years that has been the law of the land.

Second, the Supreme Court is not required to defer to our fact-finding. The Court has the power and duty to independently assess the evidence that is presented to it as it did in the Carhart decision. In the Carhart decision, the Supreme Court also specifically rejected the argument made by the bill's sponsors that the legislation need not contain the health exception because intact dilation and extraction, so-called intact D&E or D&Ex, is never necessary for a woman's health. That statement is right in the bill. The Supreme Court stated a law like H.R. 4965 that altogether forbids D&Ex creates a significant health risk and is, therefore, unconstitutional.

Mr. Speaker, this bill is not a serious attempt to deal with a problem, any problem. This bill is an attempt to fool the people of the United States into thinking that they are trying to deal with a problem.

If the sponsors of this bill wanted to deal with the problem, they know how to do it. Justice O'Connor told them specifically. They do not want a bill that would ban late-term abortions with an exception for when the health

or life of the mother is threatened. They do not want that. If they wanted that, they would write it, we would pass it, and it would be constitutional. What they want is a charade, a bill that is flatly unconstitutional, will accomplish nothing, will not see the light of day in the Senate; and, frankly, it is a charade, and the time of the House should not be wasted on charades like this when we cannot find time to do a lot of things that the welfare of this country demand that we do.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, if the gentleman from New York (Mr. NADLER) wishes to speed the process up, I am prepared to yield back the balance of my time and go to an immediate vote if the gentleman from New York will do the same.

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

Mr. SENSENBRENNER. I yield to the gentleman from New York.

Mr. NADLER. Mr. Speaker, I understand that the sponsors of this bill do not want an open debate.

Mr. SENSENBRENNER. Mr. Speaker, I reclaim my time.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

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

Mr. PENCE. Mr. Speaker, I rise in strong support of the Partial-Birth Abortion Ban Act. Partial-birth abortion is an antiseptic word for a barbaric procedure. Democratic Senator Daniel Patrick Moynihan, a supporter of abortion rights, described it accurately as near infanticide.

Mr. Speaker, the arguments for this bill are legion, and endeavors by the gentleman from Michigan (Mr. CONYERS) and the gentleman from New York (Mr. NADLER), they are also arguable, and we will hear those arguments today: the argument that our bill as we believe is superior to the Nebraska bill which has been rejected and struck down and will pass constitutional muster; the argument that will ensue today that this procedure is never medically necessary. The AMA said it is ethically wrong. They said it is never the only appropriate procedure, but we can argue the medicine and the endorsements. What is not arguable is that this practice is inherently and morally wrong.

What is not arguable is that the practice of delivering a newborn child alive, feet first, and holding it in the birth canal squirming while the back of its head is stabbed with a suction device is evil. That is not arguable.

Today we will render unlawful or at least begin to render unlawful what virtually every American knows in their heart is evil and morally wrong. That is why the overwhelming majority of the American people reject this practice and want it banned in the United States of America. Justice has always been defined by how societies protect the innocent and punish those who do them harm. The Partial-Birth Abortion Ban Act is such a bill. Of the innocent and defenseless the Bible admonishes that ''whatsoever you do for the least of these you do for me.'' Banning partial-birth abortion is the least we can do for the least of these.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, on page 16 of the bill it reads ''partial-birth abortion,'' a term that does not exist in medicine, ''is never medically indicated to preserve the health of the mother.''

Mr. Speaker, all of us here came to Congress having done other things in our lives; and sometimes I think that God sends us here to tell a particular story, and I feel that way today because I can tell the story of someone who had to have this procedure, and that person is the daughter-in-law of my friend, Susie Wilson. Before I was elected to Congress, Susie was so excited that her daughter-in-law, Vicki, was going to have a little girl. Susie had three boys and there were grandsons, but no girls. We were excited for Susie, and we found out at the end of Vicki's pregnancy that the granddaughter, they had already picked out a name, Abigail, that the baby's brains had formed almost completely outside of the cranium.

I saw the ultrasound picture, and it looked like there were two heads on this child. The question was not whether they would have the Abigail they wanted and prayed for, but how they would terminate this pregnancy, and whether in addition to having no Abigail, whether Vicki would also live; and if she lived, whether she would be healthy enough to continue to care for her two boys. So this procedure was what was safest for Vicki, and Susie went down there to be with her at this trying time, and it was devastating not just for Vicki but for her husband and for her whole family. It is not just a woman's issue.

So when I read these words, I know there is something else afoot here today, and it is not about medicine and caring for women's health and respecting the trauma that families go through in these very devastating circumstances. It is about 30-second ads.

That is why we are here today. We are here to tee up another round of 30-second ads in the November election. I think it is shameful. I hope we can vote against this bill and speak out against this outrageous politicization.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in strong support of H.R. 4965, the Partial-Birth Abortion Ban Act. My constituents in western Pennsylvania and a majority of the public in general have urged us as a Congress to end partial-birth abortion. Congress has tried to end this unnecessary and horrific procedure, and instead we have entered into a debate of semantics about what this procedure should be called, or if it is ever necessary.

No matter what one calls it, the fact is that this is a horrific procedure that is tantamount to murder. It is a tremendously violent procedure. During a partial-birth abortion, the abortionist pulls a living baby, feet first, out of the womb and into the birth canal, except for the head. He then punctures the base of the baby's skull with surgical scissors, inserts a tube into that wound, removes the brain, causing the skull to collapse at which time the now-dead baby is then delivered. This procedure actually co-opts the birth process to take the child's life.

This procedure that we are voting to ban today, no matter what we want to label it, is unconscionable and must be ended. Critics of the bill have attempted to cloud the issue of the gruesome murder of children by saying the bill fails women because it does not permit an exception for the health of the woman.

The findings of the bill clearly note, after extensive hearings on the issue, substantial evidence exists that the preservation of the health of the mother is never cited as a factor for partial-birth abortions. No studies of this procedure have been done. It is not a medically accepted procedure.

Neither the plaintiff in Stenberg v. Carhart, Dr. Leroy Carhart, nor the experts who testified on his behalf have identified a single circumstance during which a partial-birth abortion is necessary to preserve the health of a woman. In fact, the opposite is true; and this creates a health risk for the woman, this procedure of partial-birth abortion.

It is imperative for us to act and ban partial-birth abortion once and for all. As the civilized and compassionate country that we are or hope to be, it is imperative that we act now.

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

Mr. Speaker, the previous speaker would be more impressive if the gentlewoman would acknowledge that the AMA now opposes this bill.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership on this issue.

Mr. Speaker, we are just days away from the August recess, but instead of using this time to pass the very important spending bills that we have not even looked at yet, the GOP leadership has once again scheduled a vote on an issue that the Supreme Court has already struck down.

Let us be clear. This debate on the so-called partial-birth abortion procedure is nothing more than a ploy to advance the political agenda of the anti-

choice community, and they have made it quite clear that their political schemes are worth sacrificing the health of American women. But we cannot fall for this. We cannot fall for this outrageous propaganda of the anti-choice community. We cannot let them twist another health care issue into a political issue.

□ 1645

We should be promoting a woman's health, not endangering it. We should be debating concrete measures to reduce the number of unintended pregnancies and to ensure that all pregnant women have affordable access to the care they need so they can deliver healthy babies, not telling doctors how to practice medicine.

American women are counting on us to ensure that their doctors can provide the care that best meets their individual medical needs. The highest court in the land ruled that our government has no authority to force a woman to risk her health or her life in order to carry a pregnancy to term. Let us put politics aside and think of American women first. The Federal Government has no business poking its nose in decisions that are best left to a woman and to her doctor.

I urge my colleagues to reject this blatant attack on women's health and vote against H.R. 4965.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, it never ceases to amaze me when I listen to debates on the floor at the tremendous disconnect between the rhetoric we hear and the substance of the bill. This afternoon we will hear a lot of people talking about choice when they know this bill is not about choice. We will hear them talk about abortion, and this bill is really not about abortion. This bill, substantively when you look at it, is about one procedure, one procedure that is so painful to an unborn baby, so barbaric, so egregious that even the most extreme proponent of abortion has to look at it and say it shocks even their conscience.

Mr. Speaker, when we leave here tonight and all the pounding on the podium is done and all the rhetoric is finished and the lights are turned off, one thing will loom ever present, and that is this fact, that all of the testimony that we have heard on this bill suggests that an unborn baby feels pain even more than the actual baby when it is born, because of the development of the nervous system.

Mr. Speaker, when it all comes down to whether this bill should be passed or not, the question is very simple. Is there no amount of pain that is so great that we would inflict upon an unborn baby? Is there no procedure that is so egregious that we will not be prepared to step up and say that goes too far and we cannot allow that to happen? Mr. Speaker, if that is what this bill says, that this procedure goes too far, we cannot allow it to happen, we cannot allow this kind of pain to be inflicted on an unborn baby, that is why, Mr. Speaker, it is important that we pass this piece of legislation, and I hope we will do just that this afternoon.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from New York (Mr. NADLER) for being the leader on this issue for our committee as the ranking member on the Subcommittee on the Constitution. I also come to the floor acknowledging that this poses an emotional dilemma for so many of us, whether or not you happen to want to describe a very personal and private medical procedure that is known to be a small percentage of the judgment of physicians and individuals who have to subject themselves to such procedure out of the necessity of saving lives, I believe that it is key that we look at this as straightforward as we possibly can.

For, Mr. Speaker, I could relate to you as a woman the pain that I have experienced or I have seen from women who have tried in all manner to be able to bring a loving child into this world, women who have gone beyond any expression or any belief to be able to secure the opportunity to procreate. That is really the main definition, if you will, of a mother. It is someone who wants to nurture, wants to love and wants to be able to raise a child. But what my friends and colleagues are doing year after year after year, and appropriately for them it comes right at the time of an election, is to demonize a woman for simply wanting to have an opportunity, one, to live and, two, to be able to procreate.

I think we should pay attention to the Stenberg decision which has now come since the last time we debated this matter, and I do not believe we should take lightly the decision of six Supreme Court justices. That is right, Mr. Speaker, six, some of them concurring on this opinion. It means that the principle of a right to choose and privacy in this Nation is well documented in Supreme Court law. That is the basis of this Nation, three distinct branches of government; the Marbury decision suggesting that the Supreme Court is the supreme law of the land.

My colleagues have said that when the pornography law came forward, we came to the floor of the House. They are absolutely right. That has not yet been tested by this court. But we have before us a Stenberg decision which, let me cite for this body, makes it very clear of where the Supreme Court is going. Justice Breyer writes very eloquently that he knows what a personal decision this is for so many who debate the question of abortion. He recognizes that when we debate this question, the court has to move in and reconcile the diverse opinions, the emotion that grabs hold to individuals of their different opinions.

Justice Breyer says that this court, in the course of a generation, has determined and then redetermined that the Constitution offers basic protection to the woman's right to choose, and we shall not revisit those legal principles. We shall not revisit these legal principles. Rather, we apply them to the circumstances of this case.

They go on to say that three basic principles that we determine before us is that, in fact, we shall put them forth in the language of this opinion, the woman has a right to choose to terminate her pregnancy. Secondarily, a law designed to further the State's interest in fetal life which imposes an undue burden on the woman's decision before fetal viability, it is unconstitutional, the undue burden concept. And, third, subsequent to viability the State, in promoting its interest in the potentiality of human life may, if it chooses, regulate and even proscribe abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

Mr. Speaker, that is why this bill is unfortunately a political exercise, despite the emotion that comes to this floor, because we have asked those who propose this legislation to include an exception on the health of the mother, those who want to be able to procreate. They have not looked at the personal concerns of those who begged to have a child but yet they suggest that the medical judgment that has been made by a physician is wrong and they should be put in jail.

We have obstetricians from the American College of OB-GYN who clearly say that this bill is wrong because it denies them the right to treat their patients and save lives and protect the health of the mother.

I hope that we will see the light and be able to yield forth legislation that truly helps the American people.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, I stand here today in strong support of banning partial-birth abortion. As a citizen of this great country, I am ashamed that this barbaric act occurs in the greatest country in the world, the United States of America, the greatest civilized country in the world. And I stand here as a parent, as a lawmaker, and I feel a moral obligation to stand up to fight for the rights of the unborn.

I want to describe this horrific procedure. First, the doctor sticks forceps into the mother and grabs ahold of the baby's feet so they can turn it around and pull it out. They pull the baby into the birth canal by its legs and the baby does feel pain at this point. They get the baby out and at this point the doctor has to make sure that he blocks the head before it can come out because if he does not, he cannot murder the baby, it is considered a live birth. He blocks the head into the mother and sticks scissors into the back of the

skull, opening the scissors and the baby is withering around at this point because it is feeling the pain and sticks a tube, a suction tube, into the skull and sucks the brains out, collapsing the skull, killing the baby, the baby goes limp and then they pull the baby out dead. This is a horrible act and I think we should support this bill.

People on the left talk about the life and health of the mother. What about the life and health of the baby? We ought to be protecting them and thinking about them. It is a human life. It is a human life. I have heard my friends on the left as well stand up and fight harder to protect laboratory rats. These are human beings. We have a moral obligation to stand up and fight for them. I urge my colleagues to support banning this horrific act, partial-birth abortion.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. I thank the gentleman from New York for yielding time and compliment him for his strong leadership on this issue and so many others.

Mr. Speaker, I rise in strong opposition to this bill and I would like to put this debate in perspective. Today marks the 167th vote against women and their right to choose since the Republicans came to this House in the majority beginning with the 104th Congress. It is nothing more than a cruel ploy to prevent women from obtaining the safest and best medical care from their doctors. This is a deceptive and unconstitutional, extreme abortion ban. Once again, some of my colleagues are trying to strip away difficult private decisions that belong in the hands of women and their doctors.

Many things are the same since the last time we voted on this type of ban that puts the rights and health of women in jeopardy. Under this bill, women are still prevented from receiving necessary and safe medical care. Under this bill, doctors who are sworn to save lives are still criminals for doing what they are supposed to do, save lives.

Under this bill, women are still at risk of losing their future fertility, their health and even their lives. But one very important thing is very different and that is a Supreme Court decision. In 2000, in Stenberg v. Carhart, a law that is very similar to the one we are discussing today, banning late-term abortions in Nebraska, was ruled unconstitutional because it did not have an exception for the health of the woman and because it places an undue burden on a woman's ability to obtain an abortion. This means that in addition to being restrictive and cruel policy, this bill is unconstitutional.

The writers of this bill are trying to be both the Supreme Court and every woman's doctor. They are making a mockery of the separation of powers and are stealing decisions from women and their doctors. This bill is a direct assault on Roe v. Wade and a direct attack on a woman's right to choose. It politicizes families' tragedies and disregards the life and health of the woman.

The bill is unconstitutional, unsafe and puts an undue burden on women. Furthermore, ACOG, the American College of Obstetricians and Gynecologists, which represents 90 percent of the doctors in this field, rejected the ban, and I quote, as inappropriate, ill-advised and dangerous.

With this bill, Congress is doing something that we have never done before and something that we should never do, and, that is, dictating to doctors and the entire medical establishment which procedure they may choose. Congress is overriding the medical profession's best judgments, even in emergency situations, and it is in direct conflict with a Supreme Court decision ruling it as unconstitutional.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today to give my wholehearted support to H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. The partial-birth abortion procedure is a brutal and a violent act performed on an innocent victim. We cannot continue to discuss this issue in the sterile language of the right to choose. We must call partial-birth abortion what it is, the murder of a baby during delivery as he or she fights for their first breath of air and struggles to survive. We have to come face to face with the cruel injustice of lives quickly and callously ended.

I will also note that there is an appropriate choice for these growing children, the choice of allowing them to be raised by a loving, adoptive family. Former Surgeon General C. Everett Koop has stated that a partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both. In fact, were the same child at the same stage of development outside the mother's womb, he or she would be provided life-preserving care and continual medical attention. But if that same child is deemed unwanted by the mother, its life is violently ended. I say to my colleagues that this makes no sense and it is time for Congress and the President to act to end this madness.

Mr. Speaker, the argument has been made that this bill is somehow unconstitutional and that the Supreme Court will strike it down like it did the Nebraska partial-birth abortion ban. I will note that I trust the expertise of the Committee on the Judiciary in crafting a bill that will pass muster with the court. But even if it were certain that this legislation as soon as it was passed would be struck down by an imperial judiciary, we must, as Members of Congress, discharge our duties to at least attempt to protect the civil rights of the most vulnerable, those least able to protect themselves.

I am proud to be a cosponsor and to support this legislation. I urge my colleagues to do the same.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms. SOLIS).

□ 1700

Ms. SOLIS. Mr. Speaker, I would like to thank the manager on this side for yielding me time to speak this evening.

Mr. Speaker, I am disappointed also that we are spending these last few hours here while we are in session before we go on a 5-week break to talk about this issue, because I do not think it is one that the public and constituents in my district really think is of an urgent nature. I say that in a very respectful way, because I truly believe that to understand this issue of late-term abortion is to understand the circumstances that some women have had to take in their past because of something that was not in their control.

I also want to share a personal experience, not one of my own, but of a family member. My older sister many years ago had to have a late-term abortion. This was going to be her third child. The last one she had was already at age 12, so she wanted to have another child. She was very excited about her pregnancy. In her fifth month she was told by her doctor that this fetus was not forming or developing appropriately, in fact, it did not have a brain, so if she were to continue with this pregnancy, she in fact would not be giving birth to anything that would be able to sustain itself. She was therefore then required to make a decision.

She is a Catholic. She grew up in the same household I did. She has the same values, if not stronger. I do not happen to have any children. She has. I will never forget the day she got out of hospital and I visited with her at home. She was traumatized. She did not want to part with that fetus she was carrying for five months. It was a part of her and her family.

Let me tell you there are many women that feel that way that have to make those kinds of decisions, not because they wanted to abort for the sake of aborting, but because there are other physical limitations that are out of our control.

You can shake your head and say no, you are not talking the truth. Let me tell you, there are millions and millions of people out there who do understand this issue and do know that there is sympathy across the country regarding a woman's right to choose. This is a wrong approach, and I would ask my colleagues to vote against this proposition.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Tennessee (Mr. BRYANT), a former member of the committee.

Mr. BRYANT. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, as I was sitting here thinking as we have had this debate a couple of times in the past, it comes to my mind that the baby eagle in an egg actually has more Federal legal protection from injury and harm than a partially born baby has.

I do rise in strong support of this legislation. We passed it twice before with the help of all our pro-life Members and actually many pro-choice Members, because this procedure is so gruesome. The bills were vetoed in 1996 and 1997 by then-President Clinton, but we now, I believe, have a President who will sign a ban on this horrible procedure.

The legislation that we are considering today has a new, more precise definition of the prohibited procedure and should withstand the Supreme Court scrutiny, if challenged.

Furthermore, our bill includes a Congressional finding that the partial-birth abortion is never, and I underline that, is never necessary to protect the woman's health. Former Surgeon General C. Everett Koop has said, ''Partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, though, this procedure can pose a significant threat to both the mother and her future fertility.''

I agree with Dr. Koop. There is actually no evidence that partial-birth abortion is a necessary procedure to protect a woman's health. However, there is an abundance of evidence that a baby in the final trimester of pregnancy is extremely sensitive to pain.

Folks who oppose this have insisted that anesthesia kills the babies before they are removed from the womb. This is a myth that has been refuted by professional societies of anesthesiologists. In reality, the babies are alive and experience great pain when subjected to a partial-birth abortion.

I believe the Federal Government has a duty to protect all Americans, including the born, unborn and partially unborn. I ask my colleagues today, both pro-life and pro-choice, to join in banning this gruesome procedure.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, well, here we are with 2 days left before the August recess, and here is what we still have to do: Consider expulsion of only the second Member of Congress in our Nation's history, have nine appropriation bills left to pass, establishing a Department of Homeland Security so we can protect our country against terrorism, and dealing with the financial crisis our country is facing. Instead, what are we doing? The Republican leadership has scheduled 2 hours of debate on so-called partial-birth abortion. What is going on?

Well, like the swallows returning to Capistrano, it is an election year, and now it is time to bring up this hot button issue. But with a difference this year, with a twist, because this year the Supreme Court has held a bill almost identical to the bill up for consideration today unconstitutional.

From the wild rhetoric we are hearing on the other side today, one would think that women wake up suddenly in their ninth month of pregnancy and say, ''You know, I am tired of being pregnant. I think I am going to go have a partial-birth abortion.'' This is insulting to the women of this country and to the women whose tragic stories we have heard on the House floor today.

It is simply not true. This is a very rare and tragic procedure which happens only under the most difficult of circumstances and which the U.S. Congress should not be legislating, but which a woman and her family and her doctor should be deciding.

For the woman whose health is in serious danger, being able to make the most medically sound decision is vital. These are tragic moments in people's lives, as we have been hearing today, and we should not be interfering in that.

The gentleman from Virginia and others said this bill is just simply about outlawing one medical procedure. Well, that may be true, but Congress would not think about getting involved in medical procedures of any other kind.

It is really appalling to me, because this is an issue where politicians for electoral gain try to dictate a woman's actions, impugn her motives, question her morality and ultimately remove her authority to make a decision about her own body, and that is what we are debating on the floor today.

But there are two things different, as I said. The first one is the Supreme Court overturned the Nebraska case on the grounds that you have to have a health exception for the woman. Guess what? This bill has no health exception. There is no health exception whatsoever. If this bill were passed into law, the Supreme Court would find it unconstitutional. This is a fact. Let me say it again: If this bill were passed into law, the Supreme Court would find it unconstitutional. Why on Earth would we pass a bill we know for a fact is unconstitutional?

Secondly, while the bill purports to ban only a certain procedure, in fact the actual language is much broader and could be used to ban many other kinds of abortion. To be honest, that is the true ultimate goal of the proponents of the bill.

So I say vote yes on the motion to recommit, which will add a health exception, and vote no on final passage.

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

Mr. Speaker, I think that saving the lives of some partially-born babies is worth 2 hours of our time.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE), the distinguished former chairman of the Committee on the Judiciary,.

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

Mr. HYDE. Mr. Speaker, there is so much fantasy about this issue. The pro-abortion people shudder from using that term, and they use a euphemism, ''reproductive rights.'' They do not refer to the unborn baby in the womb, they refer to the ''products of conception.'' And when that unborn baby dies as a result of an abortion, by the way, they want to ''terminate'' a pregnancy. It is exterminate. That is what they want to do. And the ''choice,'' for pro-choice, they get the choice of a dead baby or a live baby.

You can listen carefully, as I did, to the statements made by the opponents of this legislation, and you listen and strain your auditory nerves. You will not hear the word ''baby'' or ''child.'' That is the X factor. That is the missing element here. You will hear about the woman. You will hear about her difficulties, and well we should.

But the baby is absolutely missing, although if you look through an ultrasonograph, a pregnant woman knows she has a little tiny member of the human family. And at what point does that tiny member of the human family get protected by the Equal Protection Clause and due process of our Constitution? No person shall be deprived of life, liberty and the pursuit of happiness, nor shall any person be deprived of equal protection of the law.

When does that attach? When the baby is four-fifths born, as in this grotesque, gruesome process called partial-birth abortion? Four-fifths born, and the doctor takes a scissors, called a Metzenbaum scissors, and shoves it in the back of the neck of the little baby, and then, with the opening, sucks out the brains to collapse the skull.

Talk about grotesque. You would not treat a laboratory rat like that. But the baby, the X factor, the fetus, the product of conception. Well, maybe when it is in the womb and you have to use an ultrasonograph to see it, you can abstract it that way. But when it is four-fifths born, it is there and you cannot avoid it.

This situation is lamentable. But I would say to the women who defend abortion, look around the globe and see who takes the brunt. The little girl babies. They are the ones that are thrown away in certain countries because there are too many of them.

It is to protect every little child that the pro-life movement advances its cause. Human life is precious. I see Members with little children on the floor. Those little children were once fetuses, embryos. They were tiny, tiny little cells, and an abortion kills that life. That is wrong.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, Coreen Costello was a pro-life Republican and

mother of three when her pregnancy turned tragically fatal for her child. Her doctors preserved Mrs. Costello's fertility with a procedure being outlawed in this bill. She then became pregnant again and gave birth to her fourth child.

Listen to this loving mother's words. ''Because of this procedure, I now have something my heart ached for, a new baby, a boy named Tucker. He is our family's joy, and I thank God for him.''

Mr. Speaker, no Member of this House has the right to substitute his or her judgment for that of a physician and a mother faced with a rare but tragic situation where a pregnancy is failing, a child has no chance of living outside of the mother's womb, and the goal is to save a mother's fertility or health. No Member has that right, not one.

If there is one late-term abortion in America for frivolous reasons, that is one too many, regardless of the procedure used. I am strongly opposed to late-term abortions. But I believe when the health of the mother is at risk, that is a choice, a decision that should be made by a woman and her doctors, and not by politicians in Washington, D.C.

That is not just my opinion, that is the opinion of the United States Supreme Court in its opinion dated June 28, 2000. In that indication, the Supreme Court and its majority of justices made it very clear that the Nebraska partial-birth abortion law was unconstitutional, in these words.

□ 1715

''. . . Because it lacks an exception for those instances when the banned procedure is necessary to preserve the health of the mother.''

That is as clear as the English language can be. Justice O'Connor, the swing vote on this issue, has made it clear. No health exception for a woman, no law; no law, not one baby saved.

Mr. Speaker, this bill has two flaws in it that make it little more than politics at its worst, as Ralph Reed said, a political silver bullet. First, it is unconstitutional, therefore meaningless. It is a false promise. Second, if the authors of this bill truly believe that American women are monsters who would take a perfectly healthy baby seconds before a perfectly healthy child birth and puncture its brain and kill that innocent child, then why is it that they just want to outlaw one procedure? If you assume the woman is that kind of a monster, then under your bill even if it were law and were constitutional, which it is not, then the woman can choose to use other late-term abortion procedures. Once again, a meaningless law, a meaningless bill that will not save one baby's life.

I think the people who should really be offended by this bill are those genuine pro-life Americans who want to stop late-term abortions. I want to stop late-term abortions, and I hope others who do would ask the proponents of this bill two questions. Is politics so important, you would rather pass a clearly unconstitutional bill than a bill that could actually become law, a bill like I helped pass in Texas 15 years ago that is still the law of that State today? Second question: Why are you outlawing one procedure and leaving every other late-term abortion procedure perfectly legal?

This bill is politics at its worst. It is a false promise.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise in strong support of this measure to ban a horrific procedure. For my generation, we have walked in as mothers and fathers into our doctors' offices and we have had the stethoscope with amplifier hooked to the mother's stomach. We have heard the heartbeat of the child at 11 weeks fill the room with a beating and a pounding and a pulsing of life. In the second trimester in the fourth month, we walk in and with modern technology in the window through the womb we see our babies. We know whether it is a boy or a girl. We see their heartbeat, we see their arms and legs kick and move. We see them suck their thumbs. We as a generation have had the experience of being in the delivery room to actually hold a baby as it arrives, to cut the umbilical cord, to know that what was once hidden is no more, what was once a mystery is now a revelation of life. I would ask us all, then, to stand for the life that we know, to stop this horrific practice.

Mr. Speaker, my generation has had the opportunity to walk into our doctor's office, and through the use of technology we have heard the beating of our unborn child's heart, we have seen the movement of the child's arms and legs. We know whether the child is a boy or girl. We have been able to be present in the delivery to room to hold the newborn child and cut the umbilical cord. What was once hidden is now known. What was once a mystery is now a wonderful revelation of newborn life.

I would ask my colleagues that before they cast a vote on this measure, listen to that heartbeat. Look into the womb. Feel the kick of the baby's legs and arms.

Before the abortionist sticks the scissors into the baby's skull, turn the baby. Look at that face and the fullness of life that resides in it. Feel the baby's body and the very essence of life. If you still have the courage, then insert the scissors. Collapse the brain, and take the life. But, if you do that, our nation, our people, or anyone who allows this or commits this act violates the nation's ideal that all are created equal and are endowed with the unalienable rights of life, liberty, and the pursuit of happiness.

If we allow this to continue as a nation, we have lost our moral compass. We have lost our conscience.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, the more I listen to this debate, the more opposed I come to this legislation. This ban on late-term abortion unconstitutionally endangers women's health. In the Stenberg v. Carhart trial, which ruled a Nebraska law that banned the so-called partial-birth abortion bill unconstitutional, the Supreme Court concluded that women's health must always be protected. According to the Court, the abortion restriction would force women to use riskier forms of abortion. Additionally, they ruled that if a current medical procedure set in place may be safer for some women in certain circumstances, then it cannot be banned. For this reason and reaffirmed in 1999, this ban is still unconstitutional. As of today the American Medical Association, which is one of the largest physician organizations in America, who usually supports abortion ban legislation, has changed their stance and concluded this late-term abortion act unhealthy.

Mr. Speaker, I support a woman's right of choice. I am in favor of medical decisions being made in private by women and their families in consultation with their doctors, and not politicians. I am a full supporter of choice without reservation. It should be the definitive right of the individual to make personal decisions regarding their health. I believe the late-term abortion ban invites the government into our doctors' offices and limits the choices of women.

I trust women to make decisions that affect their life, body and destiny. There is no more fundamental challenge than protecting a woman's reproductive health. That means guaranteeing a woman's right to choose. This so-called partial-birth abortion ban is part of a political scheme to sensationalize the abortion debate.

The truth is that the phrase ''partial-birth abortion'' is a political term, not a medical term. Partial-birth abortion bans have never been about banning one procedure nor about late-term abortions. They are deceptively designed to be intentionally vague in the attempt to ban abortion entirely. This bill opens the door for legislators to ban even more safe abortion procedures. Therefore, I urge that we protect the woman's right to choose, we protect the woman's right to protect her health, and vote to protect the woman's right to protect her life. Vote ''no'' to the partial-birth abortion ban.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HYDE).

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

I heard the gentleman from Illinois (Mr. DAVIS), my good friend, quarrel with the term ''partial-birth abortion.''

If we think of the operation, the procedure, as they laughingly call it, it is partial birth, and it is an abortion. I know my colleagues hate the word ''abortion.'' We never see a doctor saying, I am an abortionist. But that is

what they are; they are abortions. ''No Member has the right.'' What? We have a duty to defend the defenseless, and there is nothing weaker, more pitiful, more vulnerable than a little baby in the mother's womb, and the mother, who should be its protector, has suddenly become its adversary. Somebody has to speak for that little baby.

Former Senator Moynihan never voted with us once over the years; but when this came along, he said that it is too close to infanticide, infanticide, and that is exactly what it is.

As far as the Supreme Court, we can keep trying to have them get it right, can we not? You would not be satisfied with Dred Scott, would you?

Mr. Speaker, this is a good bill and ought to be supported.

Mr. NADLER. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, there are no third-term abortions of healthy babies in America. It is illegal. But it is an absolutely horrendous insult to the women of America to think that we would carry an infant through pregnancy and arbitrarily and lightly choose to take that infant's life. It is not done. Women do not do it.

As one who has carried children, four children full term and experienced both the joy and the pain of childbirth, I know of no woman who is not transformed by pregnancy and does not value that life she carries within her; and the implication that we do not is so offensive to me that I am astounded that my colleagues can get up here and present the image of women, for convenience sake, choosing a late-term abortion.

There are no late-term abortions of healthy babies that are legal, and this bill does not ban late-term abortions. This bill attempts to ban a specific procedure, and it does it so clumsily that it does not differentiate between the constitutionally prescribed pre-viability and post-viability procedures and, therefore, tramples on the rights of women to make choices about the responsibilities they are going to take throughout their lives.

We have in America the right to make that choice early in a pregnancy. We need that choice. We deserve that choice. We have that right, and we have the right to do it in a medically responsible way; and this bill abrogates that right because it does not differentiate between the normal surgical procedure that is used early in pregnancy and the specific procedure it is trying to eliminate.

This legislation, as introduced, applies throughout a pregnancy and disregards the crucial constitutional distinction between pre- and post-viability abortions.

Furthermore, it completely disregards the issue of the woman's health. It does not matter in this bill whether she has two, three, or four children depending upon her; the government is going to make the decision about how her health should be managed.

In 2000, the Supreme Court ruled in Stenberg v. Carhart that a Nebraska statute banning so-called partial-birth abortion was unconstitutional for two independent reasons. The statute lacked the necessary exception for preserving the health of the woman, and the definition of the targeted procedure was so vague it could prescribe other abortion procedures. Well, these arguments apply to this bill, both of those arguments. Mr. Speaker, H.R. 4965 contains no exception to preserve the health of the woman; and it is so vague it can be applied to the D&E procedure. Its prohibition can be applied to that and, therefore, does, without question, abrogate the right of women to handle their reproductive capabilities responsibly.

This is, in my estimation, the worst bill that has come before this Congress. I have wanted for a long time to just say how deeply offended I am that my male colleagues and some pro-life colleagues whose views I deeply respect could assume that American women would choose to abort a late-term child that they have carried within them. I know of no woman who ever has; I know of no case that shows a healthy child being aborted for the purposes of destroying that child. I hope that this will be the last time we will debate this, and I hope we will defeat this issue.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BARCIA).

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

I rise in support of H.R. 4965, the Partial-Birth Abortion Act of 2002, and I urge my colleagues to vote in favor of this important legislation. I also am proud to serve as the cochair of the pro-life caucus along with the gentleman from New Jersey (Mr. SMITH). The courageous leadership of the gentleman from New Jersey (Mr. SMITH) in legislative efforts to boldly and consistently protect the unborn is unparalleled. It has been a pleasure to share this important chairmanship with him these past several years. It is also a pleasure, as the lead Democratic sponsor of H.R. 4965, to say how much I appreciate the leadership of the gentleman from Ohio (Mr. CHABOT) for his steadfast leadership and commitment on this issue and so many other important pro-life issues that we deal with here in the Congress. I thank the gentleman.

Partial-birth abortions are most often performed in the second or third trimester, and I am particularly troubled by the horrifying aspects of late-term abortions, because there is no doubt that the partial-birth abortion procedure inflicts terrible pain upon the baby being killed. H.R. 4965 not only bans this type of atrocious procedure, but imposes fines and a maximum of 2 years imprisonment for any person who administers a partial-birth abortion. This gruesome and brutal procedure should not be permitted.

I strongly believe in the sanctity of life, and if 80 percent of abortions are elective, we must reconsider and reevaluate the values society places on human life. In many cases, this is a cold, calculated, and selfish decision.

□ 1730

This is not a choice issue, this is a life and death issue for an innocent child. It is long overdue that this heinous procedure is made illegal.

Although I am a pro-life Democrat, I am that grateful we now have a pro-life president who is signing this critical piece of legislation into law. The President's support will abrogate the need for a two-thirds vote in the Senate which has proven impossible to attain. The prospects for making the Partial Birth Abortion Ban Act the law of this land have improved greatly. Please vote to end this horrific procedure once and for all.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, I come to the floor today and have had to come in and out, because it is very difficult for me to consume the kind of emotionally charged graphic illustration and display of the subject matter that is contained in this legislation.

I came to Congress, Mr. Speaker, in 1997, and since the time that I was sworn in to the 105th Congress, I have had to vote on abortion 109 times; 109 times this House, this United States Congress has brought before it this issue of abortion. It is mind boggling that we have children, on a daily basis, since we are all concerned about the well-being of our children, and I doubt that none of us are truly concerned that we have children around this country who have malnutrition, who lack proper medical care, who commit suicide, and it has been in the news on a regular, daily basis about children who are being abused, who are being sexually molested, who are being kidnapped from their homes, and there is not one squeak of any comment from the other side about the vulnerability of those children.

Yet, I have to come down to this floor 109 times since I have been in Congress to vote on a matter of abortion.

It does make you mighty suspicious that an issue as delicate as this, the choice that a woman makes with the help of her medical doctor, would have to come before the United States Congress. And it is especially suspicious that medical privacy is an issue here; and there is no reference to medical privacy at all. How would anyone know in the House of Representatives that a woman, in consultation with her doctor, a very private decision engaging in

a very private medical procedure, how would one here know about it unless there is something in this bill that I have not read that provides hidden cameras maybe in a hospital room or doctor's office that allows some peeping tom to stand there and watch what procedure is administered against a woman in consultation with her doctor.

What privilege is there in this bill that violates medical privacy? How would any Members know that a woman has had an abortion unless there is some peeping tom exemption in this bill that allows you to see what happens?

It just makes me ill, and I know my opponent is recording this because the other side has called him and told him to do that. And I hope he plays the full thing.

Every time this is here I vote against it. We have voted $594 million worth of pay raises for this Congress since I have been in here, but we have not done diddly squat about all of these innocent and vulnerable children who have been kidnapped from their homes who are being killed on their driveways by predators.

The gentlewoman from Texas (Ms. JACKSON-LEE) has a concept about a DNA bank at the Attorney Generals Office. Those are the kind of issues that we need to be exploring for the children of America, and not providing some peeping tom, ill-conceived, 110th time in the Congress on an abortion issue.

There is a poet that all of us are all familiar with that starts off, ''Hear my humble cry; and while on others you are calling, do not pass me by.'' And I do not want all of these kids who are victimized by these criminals in this country to be passed by while we are spending two crazy hours engaging in an unconstitutional debate that only further the feathers of somebody's political aggrandizement.

Mr. SENSENBRENNER. Mr. Speaker, shortly the Democrats will offer a motion to recommit, and I hope the vote on that is not charged against us.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me time.

Mr. Speaker, I have listened to the entire debate today and I cannot help but think of a television program I was watching about crime the other day about pickpockets and purse snatchers. There are groups of people that create a diversion so that someone else can go up and commit the evil deed, but the diversion takes place, and this debate today reminds me of that.

Being accused of trying to eliminate a brutal, violent, inhumane act for political purposes for, or questions of constitutionality simply reminds me of pickpockets because the diversion just does not cut it.

According to Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, and some other medical sources, it appears that partial birth abortions are performed 3,000 to 5,000 times annually. Even those numbers could be low. Based on published interviews with numerous abortionists and interviews with Mr. Fitzsimmons in 1997, the ''vast majority'' of partial birth abortions are performed in the fifth and sixth months of pregnancy on healthy babies of healthy mothers.

We have already heard that the statement from former Surgeon General C. Everett Koop that ''partial birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both.''

Dr. James McMahon, who is considered to be the developer of this method, explicitly acknowledged that he performed such abortions on babies with no flaw whatsoever, even in the third trimester for reasons such as the mere youth of the mother or psychiatric difficulties.

These abortions do occur. It is arrogant of anyone to regard human life as flawed, and we need to support this bill and stop this violent process.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Speaker, well, as President Reagan has often said, ''Here we go again.''

It is amazing to me that we have been on this floor, especially during an election year, with this very issue that comes before us as if to say, as my dear friend from Indiana (Ms. CARSON) said, it raises a certain amount of suspicions.

Mr. Speaker, I stand here today protesting strongly against H.R. 4965 which seeks to limit a woman's right to choose medical options appropriate for herself and her family in consultation with her physician.

As Members of Congress, we are elected by our constituents to present their interests fairly here in Washington. We are not sent here to enact poorly-constructed legislation that would hinder the health and well-being of those entrusting us to make laws. Therefore, I must vehemently register my opposition to H.R. 4965 as an infringement on the personal choice and free will of women and families I am here to represent.

H.R. 4965 is bad legislation because it eliminates a health exception for women, and given that the Supreme Court has indicated that every restriction must allow an abortion when necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. Women and their families must be able to make decisions regarding their medical care along with their doctors and without the interference of Congress.

It seems to me then, Mr. Speaker, we are being subjected once again to the narrow political agenda of a group of people in deference of what is good for women's health and what is defined as legal by the Supreme Court. We must continue to be vigilant in preserving a woman's right and to make necessary choices for her own health in accordance with the law.

I would say simply that women across this country now are looking in on this and they too are concerned about why we have to constantly be given the time spent on this type of misguided piece of legislation when we can well be talking about the 11 million children who are uninsured. I have yet to see that type of law come to the floor.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BARR), a member of the Committee on the Judiciary.

Mr. BARR of Georgia. Mr. Speaker, I thank the distinguished chairman of the Committee on the Judiciary for the privilege of standing in the well of this House to address the barbaric procedure commonly euphemistically known as partial birth abortion. It is murder, pure and simple.

The previous speaker quoted that great president, the greatest president of the 21 century, Ronald Reagan, ''Here we go again.'' You are darn right. It needs to be reminded over and over again to the American people what a barbaric procedure this is. And at least in this instance, all Americans can join together and say we, at least, draw this line. We, at least, say enough is enough.

President Reagan, to quote him, also spoke in January of 1985 when he was sworn in as our President for a second term of something he very quietly but very eloquently called the ''American sound.'' He said the American sound is that sound which is echoed out across the ages, across the continent, across our continent. It is the sound, he said, of a Nation conceived by God, created in God's image for God's purposes. He said, it is a Nation that has always held in its heart compassion and love for fellow human beings.

I think if President Reagan were here today, he would say the American sound is alive and well in the House of Representatives. It is indeed the sounds of love and compassion, belief in God, and belief in the unborn, and belief in the right of that child, that precious baby to be born and to serve in God's image on this great land and in this great country.

I believe if President Reagan were here today he would say, thank you, Congress, thank you America, for standing up for the least defensive among us, for the most defenseless among us.

If, indeed, our colleagues join us as we expect today in passing this ban on this barbaric procedure, which no American can truly justify or defend, then President Reagan would indeed say, It is morning again in America for America's babies. Thank God.

Mr. NADLER. Mr. Speaker, I yield 2½ minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON).

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

Here we are on cue, Mr. Speaker. The annual late term abortion bill. This is the bill where Congress tries not to make law but to make mischief. Why would Congress want to put a woman in jeopardy of her health and a physician in jeopardy of prison for 2 years and a fine by prohibiting one and only one procedure?

Actually, Congress does not want to put the physician in jeopardy. What Congress wants to do is to keep the physician from performing any abortion including legal abortions. And if this bill passes, that is exactly what will happen across this country.

The point of this bill is to make it legally risky to perform any abortion because the physician cannot be sure he will not be prosecuted. That is why the courts have struck down these late-term abortion bans time and time again.

The bill tries to simply hop over Roe versus Wade with 15 pages of congressional findings. But congressional findings cannot overrule a Supreme Court decision. Congressional findings cannot nullify a woman's constitutional right. Congressional findings cannot defeat a woman's right to have an abortion if her health is in danger. This bill is not even a nice try. It is plainly unconstitutional. Worse, it is an insult to the women of America.

□ 1745

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

Mr. PITTS. Mr. Speaker, partial-birth abortion is one of the most violent and gruesome acts known to mankind. It is hard to believe that it is legal at all in a Nation that was founded on the principle of human rights.

Some years ago it was believed that partial-birth abortion was a very rare procedure only performed in the direst of emergencies. That was not true. The fact is there are some people in this country who are so radical and extreme in their defense of abortion that they are willing even to lie to defend this violent kind of act.

Five years ago, the executive director of the National Coalition of Abortion Providers told the New York Times that he had lied about how often partial-birth abortions are performed, lied about how healthy the mothers were, and lied about the viability of the children who were needlessly killed and, in fact, he said he ''lied through his teeth.'' His words, not mine.

More often than not, this is a baby that would have every chance of surviving if it were delivered normally, and usually the baby has developed well beyond the stage where it can feel every bit of pain we would feel if we were subjected to the same procedure. We have heard the horrific procedure described here on the floor.

Understand that the baby is given no anesthetic or painkiller of any kind. Imagine being stabbed in the back of the neck with a pair of scissors. Imagine how it must hurt. That is how much it hurts the baby.

All of this is done, Mr. Speaker, and it is perfectly legal today in the United States. Legal, yes; necessary, never. No partial-birth abortion is ever medically necessary, according to the best medical experts in America.

The vast majority of the American people want this barbaric, violent procedure to be illegal. Vote for banning the partial-birth abortion procedure.

Mr. NADLER. Mr. Speaker, may I inquire how much time I have left, please.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from New York (Mr. NADLER) has 5½ minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 23 minutes remaining.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

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

This bill is an affront to all women, and it is an insult to the medical profession, and it violates the Constitution.

Abortion is a constitutionally protected medical procedure in this country, and this bill flatly aims to take away that right. It does not aim to ban a single procedure that proponents of this bill like to call partial-birth abortion. If it did, the sponsors of this bill would have accepted medical language that actually describes a medical procedure, but they rejected this language.

Instead, the proponents chose to play doctor and describe a so-called medical procedure in their own words. This bill does not even ban what some may call late-term abortion because it never specifies a point in the pregnancy after which an abortion is banned.

What this bill really does is chip away at Roe v. Wade which established the constitutional right of women to control their own bodies. The proponents of this bill do not trust women to make their own decisions about their reproductive health. They do not trust women to talk to their doctors about their health, about their choices, and then make their own informed decisions. They do not want to give women the power and freedom to make their own decisions about their reproductive lives, despite the fact that the Supreme Court has repeatedly upheld this right in the face of countless challenges.

I urge a no vote.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the distinguished chairman for yielding me the time.

Mr. Speaker, a society can be measured by how well—or poorly—it treats the most vulnerable in its midst, and partial-birth abortion, like all abortions, is a horrific violence against women and violence against vulnerable little boys and girls.

Mr. Speaker, 30 years after Roe v. Wade, I believe it is time for a serious reality check and a compassion check. Mr. Speaker, abortion on demand has claimed the lives of more than 42 million children and although grossly underreported, has resulted in death, injury and emotional trauma to women. Forty-two million babies have disappeared off the face of the earth—slaughtered by abortion. Look at it this way. Yankee Stadium holds about 57,500 people. If we filled Yankee Stadium to capacity with children slated for execution, we would fill that stadium every day for 730 days. Perhaps this to give us some idea of the magnitude of the loss of life—42 million dead. It is of genocidal proportions.

Abortion methods, Mr. Speaker, are violence against children. Abortion methods dismember and chemically poison children. There is absolutely nothing compassionate or benign about dousing a baby with superconcentrated salt solutions or lethal injections or hacking them to pieces with surgical knives, and there is absolutely nothing compassionate or caring about sucking a baby's brains out with partial-birth abortion. It is child abuse.

Today, Mr. Speaker, because of the gentleman from Wisconsin's (Mr. SENSENBRENNER) and because of the gentleman from Ohio's (Mr. CHABOT) human rights legislation and their courage in proposing it, we can stop some of this violence.

Today, Mr. Speaker, we inform America that a partial-birth abortion is gruesome and includes pulling a living baby feet first out of the womb and into the birth canal, except for the head, and it is there the abortionist jams the baby's head with the scissors for the purposes of creating a hole in the back of the head. Then that baby has his or her brains sucked out with a high powered vacuum.

Why is that deed—that act, compassionate? I say to my colleagues, and you can snicker and laugh all you want. It is violence against children. It is violence and you my colleagues are sanctioning it, and only because of this legislation do we have an opportunity to save at least some of these children from this terrible, horrific ''procedure.''

Mr. Speaker, in 1998 a 6-pound baby girl known as Baby Phoenix was born with a skull fracture and lacerations on her face after the abortionist, Dr. John Biskind, unsuccessfully attempted to perform a partial birth abortion on her 17-year-old mother. Baby Phoenix survived that murder attempt. There was a lot of controversy abut that abortion and do my colleagues know what the controversy was about? That the abortionist miscalculated the baby's age rather than

the horrific, horrible violence that was visited upon that baby. That baby survives but carries those scars. Let us be reminded of Baby Phoenix—the lucky one who survived—and all those others who did not.

This is human rights legislation. I have been in Congress 22 years. I do a lot to combat torture. I chair the Commission for Security and Cooperation in Europe. I have written two torture victims relief bills and many other human rights pieces of legislation including a historic antitrafficking law. Partial birth abortion is torture—torture of little baby boys and little baby girls, and I am ashamed of my colleagues who stand up here and call efforts to stop it, an insult to women.

This procedure is an insult and infinitely more to boys and girls who are killed in the womb or partially born. It is an insult and more to the mothers who are the co-victims. I urge my colleagues to vote yes and against the motion to recommit.

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

Mr. JEFF MILLER of Florida. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today also in support of the partial-birth abortion ban of 2002. We have been accused of being political with this piece of legislation. We have been told that this is an infringement on women's rights, and I will tell my colleagues that what this is is an infringement on a person's right who is too young to speak, certainly too young to vote.

I believe the life of the unborn child begins at conception, and I do believe that every time an abortion occurs, a life is lost. Each year over a million babies are slain at the hands of doctors performing abortions. Some doctors willingly and routinely kill babies during the second and sometimes third trimester.

We have already heard that this is an excruciatingly painful procedure where the doctor violently manipulates the baby's position, creating a breech delivery, and then mercilessly stabs through the child's skull to remove the baby's brain with a vacuum. This procedure is appalling and disturbing, and I feel it is nothing short of murder.

In response to the Supreme Court's split decision in the Stenberg-Carhart ruling, this will help give clear guidelines to what is considered constitutional and prohibited.

Mr. NADLER. Mr. Speaker, I yield myself the remaining time.

Let me summarize this bill first on the substance. This bill is really simply an attack on the very idea of the woman's right to choose to have an abortion, a right guaranteed by the Constitution of the United States. It is an appeal to people's emotions, using falsehoods and false claims.

Let me remind my colleagues of several facts. One, there are no abortions in this country in the last trimester of pregnancy except to save the life, the health of the mother, because that would be illegal.

Two, the gentleman says that the procedures outlined in this bill are never necessary to save the health of the mother, but I would point out that the American College of Obstetricians and Gynecologists, the American Nurses Association, the American Medical Women's Association in an amicus curiae brief to the Court, cited approval by the Supreme Court, concluded ''especially for women with particular health conditions, there is medical evidence that D&X procedures may be safer than available alternatives.'' The political posturing of Congress is no substitute for the medical expertise of doctors.

The distinguished chairman said there was a moral consensus against this procedure, but the fact is when put before the voters in referenda in Colorado, Maine and Washington State, voters rejected bans very similar to this bill. What moral consensus?

The Supreme Court has very clearly told us that this bill is unconstitutional because despite the rhetoric that this is a late-term abortion bill to save fully formed fetuses, the fact is that it bans abortions well before viability, and the Supreme Court in Carhart said, ''Even if the statute's basic aim is to ban the D&X procedure, its language makes clear that it also covers a much broader category of procedures and therefore imposes an unconstitutional burden on women.''

The health of the mother. The Supreme Court has told us that for such a bill to be constitutional, it must have an exception for the health of the mother, and what human being would not want to have an exception for the health of the mother? So we destroy her health for an ideological reason?

The findings of the bill that such procedures are never relevant, are never necessary for health are political findings, not medical findings, as we have noted above, and would be disregarded by the Supreme Court, as the Court has told us in the most recent cases.

By its own terms, because lacking a health exception, this bill would sanction grievous bodily harm to a woman rather than let her and her doctor do what is necessary in their judgment to safeguard her health and her welfare.

Finally, Mr. Speaker, this bill is a sham. Because it is unconstitutional, because it is clearly and facially unconstitutional, it can do nothing to avert any of the horrors cited by the gentleman from New Jersey (Mr. SMITH) and by other supporters of the bill. If the supporters wanted, we could enact a bill that would ban late-term abortions with an exception for where the life and health of the mother is at risk. Such a bill would be constitutional and might accomplish something.

It would not be clearly disingenuous and hypocritical, but the sponsors of this bill do not want to do that. They prefer a sham bill.

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They prefer posturing. Instead of doing something, they would rather have a lot of emotion against a woman's right to choose. But make no mistake, this bill is a sham. It would do nothing. It is unconstitutional.

We should vote against this bill. It is an insult to American women, and it is an insult to our collective intelligence.

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

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

Mr. Speaker, this is an important debate. It is an important debate because it puts before Congress and, thus, the American people whether or not there should be a line drawn and whether there should be any meaningful and effective restrictions on abortion.

The partial-birth abortion procedure is barbaric and grotesque, and most medical societies, including those that generally oppose restrictions on physicians being able to practice any type of medicine, have said that there are other types of abortion procedures that would be more proper than a partial-birth abortion.

Let me quote from the committee report. It says, ''The absence of any basis upon which to conclude that partial-birth abortions are safe has not gone unnoticed by the American Medical Association, which has stated that partial-birth abortion is 'not an accepted medical practice,'" not an accepted medical practice, and that ''it has never been subjected to even a minimal amount of the normal medical practice development; that the relative advantages and disadvantages of the procedure and specific circumstances remain unknown.'' The AMA says it is an experimental procedure and that there is no consensus among obstetricians about its use.

The AMA has further noted that ''Partial-birth abortion is broadly disfavored by both medical experts and the public, is ethically wrong,'' and I repeat, is ethically wrong, ''and is never the only appropriate procedure.'' Thus, a select panel convened by the AMA could not find any identified circumstance where the partial-birth abortion was the only appropriate alternative.

So, if my colleagues want to do away with partial-birth abortions but are talking about a woman's right to choose, there are other alternatives, according to the AMA.

Now, I grant that the AMA does not support the criminal sanctions that are contained in this bill against physicians who perform partial-birth abortions in violation of the law, but they still condemn the partial-birth abortion procedure in their statements that they issued several years ago when Congress first took this issue up.

The American College of Obstetricians and Gynecologists, which is an organization that has consistently opposed legal restrictions on abortions,

including the partial-birth abortion ban, has reported a select panel convened by ACOG could identify no circumstances under which this, meaning the D&X procedure, would be the only option to save the life or preserve the health of the woman.

Now, former Senator Daniel Patrick Moynihan, whom I am sure was very strongly supported politically by my colleague from New York, and who never voted for restrictions on abortion during his long and distinguished career in the other body, said that partial-birth abortion is very close to infanticide. I would strike very close. It is infanticide, because the difference between a legal partial-birth abortion and first degree murder is three inches. Three inches. The size of the head, which has not been delivered, where the scissors are inserted into the back of the baby's head and the brains are sucked out. This is what we want to ban. And this, I think, is supported by the vast majority of the American people.

Now, we have also heard a lot from people who are opposed to this legislation; that this always should be something that is in the professional opinion of a physician. Well, many of the physicians whose professional opinion is requested have an inherent conflict of interest because they will charge a fee and make money by saying that this is a proper procedure, even though the vast majority of their colleagues say it is never a proper procedure and other alternatives are available.

Finally, we have heard a lot about the Stenberg decision. This is a different bill than the law from the Nebraska case that was struck down by the Supreme Court. It contains extensive findings by the Congress of the United States, which is our right as a legislative body to make. It is up to the court to determine whether or not the findings that are made by the Congress are valid when it considers the constitutionality of this bill, should it be enacted into law, just like it was in the province of the court to consider the findings of the district court when it struck down the Nebraska law in the Stenberg decision.

The doctrine of separation of powers gives us the right to make those findings. Those findings are all medically supported by the testimony that the Committee on the Judiciary has received since 1995.

I believe this bill is constitutional. I believe this bill is good public policy. But, most importantly, I believe it is our right and our duty to stop this grotesque procedure, which is three inches away from infanticide.

Ms. McCARTHY of Missouri. Mr. Speaker, I rise in opposition to H.R. 4965, the Late Term Abortion Ban Act. In 2002, the U.S. Supreme Court held, by a 5–4 decision, in Stenberg v. Carhart that a Nebraska law prohibiting later term abortions was unconstitutional. The Court's decision makes clear that federal legislation addressing this issue must include exceptions to protect the life and health of the mother. H.R. 4965 ignores this health exception clearly outlined by the Supreme Court.

I am a cosponsor of House Resolution 2702, the Late Term Abortion Restriction Act. This legislation would prohibit all abortions after fetal viability unless it is in the judgment of the attending physician it is necessary to preserve the life or health of the mother. The Supreme Court concluded in Stenberg v. Carhart that a woman's health must remain the physician's primary concern and that a physician must be given the discretion to determine the best course of treatment to protect women's lives and health. H.R. 2702 will pass constitutional scrutiny. In addition, this measure addresses the termination of viable fetuses in the late stages of pregnancy.

Mr. Speaker, it is unfortunate that we are debating a bill ruled unconstitutional by the United States Supreme Court. Instead, we should be debating and voting on H.R. 2702, a bipartisan measure to ban all late term abortions except ''to preserve the life of the woman or to avert serious adverse health consequences to the woman.''

Mr. Tiahrt. Mr. Speaker, I rise today in strong support of H.R. 4965, the Partial-Birth Abortion Ban Act. Regardless of whether one is pro-life or for abortion rights, the partial-birth abortion procedure is clearly morally indefensible. While every abortion sadly takes a life, a partial-birth abortion takes a baby's life as he/she emerges from the mother's womb and while the baby is still in the birth canal. My fellow colleagues have described the horrific process with pictures that make one sick to his stomach. It is unfathomable that someone could do this to another human being, especially a helpless baby.

Specialists who perform the partial-birth abortion have testified there is no medically-accepted use for the partial-birth procedure, and that, in fact the procedure itself presents health risks for the mother.

There is talk of including a provision to allow for exceptions when the ''mental health'' of the mother is at risk. This is a phony ban. My home state of Kansas passed such a bill, which has essentially meant that partial-birth abortions are banned unless a woman wants one. I am ashamed to report that in Wichita, the infamous late-term abortionist George Tiller performed 182 partial-birth abortions in 1999 alone under this weak law. That is 182 viable babies who were brutally murdered. We cannot allow that to happen.

Congress has passed a partial-birth abortion ban twice, which President Clinton vetoed both times—over the wishes of the American people. President Bush strongly supports H.R. 4965 and is looking forward to signing a partial-birth abortion ban. 70% of Americans believe that partial-birth abortions should be banned. This body that is expressly the ''people's House'' needs to listen to the will of the people.

As a father of three beautiful children and a strong defender of human life, I am embarrassed that our wonderful country permits partial-birth abortions. I urge you to vote in favor of this important legislation so that all the beautiful children who come into this world are treated as the human beings they are.

Mr. PAUL. Mr. Speaker, like many Americans, I am greatly concerned about abortion. Abortion on demand is no doubt the most serious social-political problem of our age. The lack of respect for life that permits abortion significantly contributes to our violent culture and our careless attitude toward liberty.

Whether a civilized society treats human life with dignity or contempt determines the outcome of that civilization. Reaffirming the importance of the sanctity of life is crucial for the continuation of a civilized society. There is already strong evidence that we are indeed on the slippery slope toward euthanasia and human experimentation. Although the real problem lies within the hearts and minds of the people, the legal problems of protecting life stem from the ill-advised Roe v. Wade ruling, a ruling that constitutionally should never have occurred.

The best solution, of course, is not now available to us. That would be a Supreme Court that recognizes that for all criminal laws, the several states retain jurisdiction. Something that Congress can do is remove the issue from the jurisdiction of the lower federal courts, so that states can deal with the problems surrounding abortion, thus helping to reverse some of the impact of Roe v. Wade.

Unfortunately, H.R. 4965 takes a different approach, one that is not only constitutionally flawed, but flawed in principle, as well. Though I will vote to ban the horrible partial-birth abortion procedure, I fear that the language and reasoning used in this bill do not further the pro-life cause, but rather cement fallacious principles into both our culture and legal system.

For example, 14G in the ''Findings'' section of this bill states, ''. . . such a prohibition [upon the partial-birth abortion procedure] will draw a bright line that clearly distinguishes abortion and infanticide . . .'' The question I wish to pose in response is this: Is not the fact that life begins at conception the main tenet of the pro-life community? By stating that we are drawing a ''bright line'' between abortion and infanticide, I fear that we are simply reinforcing the dangerous idea underlying Roe v. Wade, which is the belief that we as human beings can determine which members of the human family are ''expendable,'' and which are not.

The belief that we as a society can decide which persons are ''expendable,'' leads us directly down a slippery slope of violence and apathy toward humanity. Though many decry such ethicists as Peter Singer of Princeton, who advocates the ''right'' of parents to choose infanticide, as well as euthanasia, his reasoning is simply a logical extension of the ethic underlying Roe v. Wade, which is that if certain people are not ''useful'' or ''convenient,'' they should be done away with.

H.R. 4965 also depends heavily upon a ''distinction'' made by the Court in both Roe v. Wade and Planned Parenthood v. Casey, which established that a child within the womb is not protected under law, but one outside of the womb is. By depending upon this false and illogical ''distinction,'' I fear that H.R. 4965, as I stated before, ingrains the principles of Roe v. Wade into our justice system, rather than refutes them as it should.

Despite its severe flaws, the bill nonetheless has the possibility of saving innocent human life, and should therefore be supported. I fear, though, that when the pro-life community uses the arguments of the opposing side to advance its agenda, it does more harm than good.

I wish to conclude with a quote from Mother Theresa, who gave a beautiful and powerful speech about abortion on February 3, 1994, at

the National Prayer Breakfast in Washington DC: ''. . . From here, a sign of care for the weakest of the weak—the unborn child—must go out to the world. If you (in the United States) become a burning light of justice and peace in the world, then really you will be true to what the founders of this country stood for . . .''

May we see bills in the future that stay true to the solid principles the founders of this country stood for, rather than waver and compromise these principles.

Mr. BARCIA. Mr. Speaker, I rise in support of H.R. 4965, the Partial-Birth Abortion Ban Act of 2002 and I urge my colleagues to vote in favor of this important legislation.

I am proud to serve as Co-Chair of the Pro-Life Caucus along with Representative CHRIS SMITH. Representative CHRIS SMITH's courageous leadership in legislative efforts to boldly and consistently protect the un-born is unparalleled. It has been a pleasure to share this important Chairmanship with him.

And as the lead Democratic sponsor of H.R. 4965 I also want to thank Representative CHABOT for his steadfast leadership on this and so many other important pro-life issues.

Partial-birth abortions are most often performed in the second or third trimester and I am particularly troubled by the horrifying aspects of late term abortions because there is no doubt that the partial-birth abortion procedure inflicts terrible pain upon the baby being killed.

H.R. 4965 not only bans this type of atrocious procedure but imposes fines and a maximum of two years imprisonment for any person who administers a partial-birth abortion. This gruesome and brutal procedure should not be permitted.

I strongly believe in the sanctity of life and if 80 percent of abortions are elective, we must reconsider and re-evaluate the value society places on human life. In many cases, this is a cold, calculated, and selfish decision.

This is not a choice issue. This is a life and death issue for an innocent child. It is long overdue that this heinous procedure is made illegal.

Although I am a Pro-Life Democrat, I am grateful that we now have a Pro-Life President who will sign this critical piece of legislation into law. The President's support will abrogate the need for a two-thirds vote in the Senate—which has proven impossible to attain.

The prospects for making the Partial-Birth Abortion Ban Act the law of the land have improved greatly. Please vote to end this horrific procedure once and for all.

Ms. HARMAN. Mr. Speaker, as we consider H.R. 4965, the Late Term Abortion Ban Act, I would like to clarify what this debate is really about.

We are not debating so-called ''partial-birth'' abortion.

We are not debating late-term abortion.

We are debating a broad and unconstitutional attack on a woman's fundamental right to protect her life and health, our right to make our own decisions—our right to choose whether or not to have an abortion.

The Supreme Court has repeatedly ruled not simply that women have the right to an abortion, but that we have the right to the safest abortion procedure available.

States and Congress cannot place an undue burden on a women's right to choose, and cannot endanger the life or health of a woman seeking an abortion.

This bill fails on both counts. Its overbroad definition of ''late term'' abortion could include some of the most commonly used medical procedures for abortion in the second trimester—making it difficult for a woman to get an abortion. Its denial of an exception to preserve the health of a woman is dangerous. Ample evidence exists that the procedures described by my colleagues may be the safest for women with certain health conditions.

If the sponsors of this bill wanted to ban one medical procedure, why didn't they use medical terms to describe it?

If they wanted to ban post-viability abortions, why didn't they include a time limit in their bill?

I can only conclude that this bill is intended—just as the Nebraska law struck down by the Supreme Court was—to ban some of the most common abortion procedures used, even before a fetus is viable.

This bill is unconstitutional and it is harmful to women's health. Let's keep medical decisions where they belong—in the doctor's office, not the House floor.

Vote no on H.R. 4965.

Mr. VITTER. Mr. Speaker, I rise today with strong unequivocal support for H.R. 4965, the Partial-Birth Abortion Ban. Passage of this act into law is long overdue, and I hope the American people—who overwhelmingly want this ban enacted—will get their victory in this House today and in this Congress. Time and a gain we hear the myths and propaganda that this barbaric procedure is necessary to somehow protect women. But what do doctors and experts have to say about the procedure?

The head of National Coalition of Abortion Providers in 1997 said that the ''vast majority'' of partial-birth abortions are performed on healthy babies and healthy mothers.

The American Medical Association, regarding legislation to ban partial-birth abortions, wrote ''Thank you for the opportunity to work with you towards restricting a procedure we all agree is not good medicine.''

The Physicians' Ad Hoc Coalition for the Truth (PHACT) stated, ''Never is the partial-birth procedure medically indicated. Rather such infants are regularly and safely delivered live . . . with no threat to the mother's health or fertility.''

Lastly, former Surgeon General C. Everett Koop issued a statement that not only is the procedure never medically necessary for mother or child but ''on the contrary, this procedure can pose a significant threat to both.''

We also know now that the infant feels tremendous pain, contrary to prior statements by pro-abortion groups. Yet these same organizations would have us believe that this grisly procedure is actually necessary—this same procedure where an infant, in the late second or third trimester, is removed from the mother's uterus save only his or her head, and then an abortionist pierces the skull and vacuums the brain, collapsing the skull.

Allowing any procedure as gruesome as this is simply unacceptable to me, and should be so for this Congress. The American people have spoken loudly and clearly on this issue. This ban has passed the House of Representatives in the past, and we should do so here again today. This legislation before us is carefully crafted to address concerns of the Supreme Court. President Bush has indicated that he will sign this much-needed legislation.

I urge my colleagues to support passage of the Partial-Birth Abortion Ban, and let's hope that it's the last time we have to fight for this common sense legislation.

Mr. TERRY. Mr. Speaker, I rise in support of H.R. 4965, the Partial-Birth Abortion Ban Act.

Two years ago, the Supreme Court ruled 5 to 4 that my home state of Nebraska's ban of this grisly procedure was unconstitutional. Justice Scalia wrote in his dissent that ''the notion that the Constitution prohibits the States from simply banning this visibly brutal means of eliminating our half-born posterity is quite simply absurd.'' He further noted that even ''the most clinical description of [a partial-birth abortion] evokes a shudder of revulsion.''

H.R. 4965 contains several provisions to address the Court's concerns. A partial-birth abortion is more clearly defined to distinguish it from the ''dilation and evacuation'' procedure used to end early-term pregnancies. The bill also contains extensive Findings of Fact based on years of Congressional hearings and testimony. They prove beyond a shadow of a doubt that partial-birth abortion is unrecognized by the mainstream medical community, never necessary to preserve the health of the mother, and may in fact harm her health.

I sincerely hope these changes will withstand the scrutiny of the Court. I urge my colleagues to join me in voting to end the barbarism of partial-birth abortion once and for all and protect children who are just inches away from taking their first breath.

Mr. CRANE. Mr. Speaker, as a cosponsor of H.R. 4965, I rise in strong support of the Partial-Birth Abortion Ban Act of 2002. By passing this legislation we will once again take a step towards banning the truly horrifying practice whereby an innocent life is taken in the most gruesome of procedures.

Used in second and third trimester abortions, the ''partial-birth'' procedure involves pulling some portion of the fetus into the birth canal, crushing the skull and killing the fetus, before removing the fetus from the mother's body.

Congress passed legislation in each of the last three Congresses banning partial-birth abortions. In the 104th and 105th Congresses, President Clinton vetoed the partial-birth abortion bans. Both times the House voted to override the veto, but the Senate sustained it.

This bill makes it a federal crime for a physician, in or affecting interstate commerce, to perform a so-called partial birth abortion, unless it is necessary to save the life of the mother. Under this legislation, anyone who knowingly performs a partial-birth abortion would be subject to fines and up to two years in prison. The bill provides that a defendant could seek a hearing before the state medical board on whether his or her conduct was necessary to save the life of the mother and those findings may be admissible at trial.

Mr. Speaker, I urge my colleagues to vote in favor of this very important legislation. By passing H.R. 4965 today, we will take a giant step towards protecting innocent babies who, through no fault of their own, never have a chance.

Mr. GEPHARDT. Mr. Speaker, it is regrettable that today the Republican leadership ignored an opportunity to resolve the issue of late-term abortion in an effective and constitutional way, moving forward yet again with a ban that does not include an exception to protect the health of the woman. The Supreme Court has spoken on this matter. Banning this

procedure without such an exception is unconstitutional. Repeatedly on the Floor of this House an alternative that contains this crucial exception has been offered, and repeatedly I have voted for it. That a ban would be before us today without that exception can only mean that the Republican leadership wants a political issue more than an effective law. I would hope that any future consideration of this legislation would not suffer from such a flaw.

Mr. SIMMONS. Mr. Speaker, I rise today in opposition of H.R. 4965, the ''Partial-Birth Abortion Ban of 2002.''

Since Congress last voted on this issue two year ago, the U.S. Supreme Court, by a 5–4 vote, found that the Nebraska law making it a crime to perform so-called ''partial birth abortions'' was unconstitutional because it imposed an undue burden on women's decision to end a pregnancy and it lacked the constitutionally required exception to protect women's health.

In spite of the U.S. Supreme Court's rulings, the ''Partial-Birth Abortion Ban of 2002'' fails to include heath exceptions for women and imposes an undue burden on a woman's ability to choose an abortion procedure.

The difficult and personal medical decisions made by a woman, her families and her medical doctors should not be influenced by the agendas of politicians. A free people must assume responsibility to make vital decisions involving them; and not allow their decisions to be made by the federal government.

While I remain concerned about the number of abortions in America today, I continue to fully support the U.S. Supreme Court decision. I will also continue to strongly support programs that can reduce the number of abortions worldwide. These include domestic and international family planning programs, age-appropriate education programs and increased availability of adoptive services.

Mr. SOUDER. Mr. Speaker, as a cosponsor of H.R. 4965, the Partial-Birth Abortion Ban Act, I believe the Congress must act now to pass this important bill. We should not allow the heinous killing of a partially delivered baby to be lawful any longer.

In a partial-birth abortion, the abortionist pulls a living baby feet-first out of the womb and into the birth canal, except for the head, which the abortionist purposely keeps lodged just inside the cervix. The abortionist then punctures the base of the skull with a surgical instrument, such as a long surgical scissors or a pointed hollow metal tube called a trochar. He or she then inserts a catheter into the wound and removes the baby's brain with a powerful suction machine. This causes the skull to collapse, after which the abortionist completes the delivery of the now-dead baby.

H.R. 4965 would ban performance of this abhorrent procedure except if it were necessary to save a mother's life. It defines partial-birth abortion as an abortion in which ''the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside of the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the naval is outside the body of the mother,'' and then kills the baby. The bill would permit use of the procedure if ''necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.''

According to Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, partial-birth abortions are performed 3,000 to 5,000 times annually, usually in the fifth and sixth months of pregnancy, on healthy babies of healthy mothers. It has also been used to perform abortions as late as in the third trimester, which is the seventh month and later. Many of these babies are old enough to live, and many of them are developed enough to feel the pain of this horrendous procedure.

The Congress has voted to ban partial-birth abortions twice, only for the ban to be vetoed both times. We must pass H.R. 4695 now to ensure that partially delivered babies are protected and that the awful procedure used to perform partial-birth abortions is banned under law.

Mr. WELDON of Florida. Mr. Speaker, as a physician, I find the practice of partial-birth abortion extremely disturbing. This is a gruesome practice where the abortionist delivers the entire child except the head. The head is left in the mother's womb until the abortionist kills the child by puncturing the back of the child's neck. If the baby's head were three inches further out of the birth canal, this practice would be recognized as murder under our court system.

''Critics of a partial-birth abortion ban have asserted that the ban could endanger the life and/or health of the mother, but such is not the case. Even the American Medical Association has said that the partial-birth abortion procedure is 'not good medicine' and is 'not medically indicated' in any situation.

''Congress has approved legislation to ban partial-birth abortions in the 104th, 105th, and the 106th Congresses with support by scores of Members who have never voted pro-life. Even many abortion supporters find this practice reprehensible.

''President Bush has said that he would sign a bill banning this practice. My hope is that the 107th Congress will give the President the Partial-Birth Abortion Ban Act of 2002 for him to do just that. I'm hopeful that we will soon see progress in ending this gruesome practice. I urge my colleagues to do the right thing today and vote for this ban.''

Mr. BLUMENAUER. Mr. Speaker, I oppose the bill before us today, H.R. 4965, which would ban late-term abortions. Congress has no business substituting its judgment for families in cases that may jeopardize not just the health, but the life of the mother, and a family's ability to have a healthy child in the future. I have consistently opposed efforts by politicians in Congress to play politics with the most difficult and personal decisions a family can face.

Access to this procedure helps ensure a woman's health and her constitutional rights. It is the safest and most commonly used type of abortion in the second trimester of pregnancy. In fact, the American College of Obstetricians and Gynecologists has recognized that it ''may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman.''

Today's bill also fails to address a ruling in June 2000 by the U.S. Supreme Court, which struck down a Nebraska ban on late-term abortions in the case Stenberg v. Carhart. The Court invalidated the Nebraska law because it did not contain an exception to protect a woman's health, and it placed an ''undue burden'' on a woman's right to choose. Now, two years later, the House of Representatives is once again moving forward with a similar unconstitutional ban. The only substantive change in today's bill is the addition of a lengthy ''findings'' section that does not correct the blatant constitutional defects.

The timing of this debate and procedures used to bring it to the floor suggest that the anti-choice House Republican leadership is playing anti-abortion politics rather than having a serious legislative discussion. I disagree with the unfair closed rule that the Republican Leadership has set for debate on this bill because it denies pro-choice lawmakers the opportunity to offer amendments or substitute legislation to address the constitutional defects of the legislation.

Not everyone would make the same decision when faced with the wrenching decision of choosing between this procedure and the life of a loved one, but it is wrong for Congress to make that choice for American families.

I urge my colleagues to vote against the unfair rule and the underlying bill.

Mr. SHUSTER. Mr. Speaker, I rise today in support of H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. This legislation would ban a gruesome procedure that kills a child who is just inches from birth. I will not go into the details of this cruel procedure. What I will mention, however, is that numerous medical experts have testified that fetuses are able to fully feel pain after 20 weeks of development, the time at which most partial birth abortion procedures occur.

Some have questioned the constitutionality of partial-birth abortion bans. This legislation, however, clearly addresses questions that have surrounded previous bans in two key ways. First, H.R. 4965 narrowly defines what constitutes a partial-birth abortion. Second, this legislation deals with the question of health exemptions. H.R. 4965 presents extensive Congressional findings, based on the testimony of experts, that partial-birth abortions are never needed to save the life of the mother and that they often pose serious health risks to women.

Mr. Speaker, the American Medical Association has concluded that partial-birth abortions are ''not an accepted medical practice.'' Yet, this cruel practice continues to take place. Congress has twice passed legislation to ban partial-birth abortions. Unfortunately, both times the legislation was vetoed by President Clinton.

The time for Congress to act on this issue is here. President Bush has said that he would sign a ban on partial-birth abortions. Mr. Speaker, we finally have an opportunity to put in place a ban that protects the most innocent of our society—I urge passage of the Partial-Birth Abortion Ban Act of 2002.

Mr. McDERMOTT. Mr. Speaker, as a physician I must stand against H.R. 4965.

This bill bans a legitimate medical procedure and jeopardizes the lives of thousands of childbearing women. Supporters of H.R. 4965 claim to ban only a certain kind of abortion procedure that they happen to find offensive. However, the language of the bill is purposefully vague and would ban multiple types of abortion procedures. Further, this bill fails to provide a viability line for the fetus, so certain abortions that occur during the first two trimesters would be prohibited.

In 2000, the Supreme Court ruled on Carhart v. Stenberg. It decided that any ban on so-called ''partial birth abortions'' must contain an exception for the mother's health. But this bill does not provide any exception to protect the health of the mother.

This is the fifth time in seven years that the Congress has considered this legislation. H.R. 4965 is merely used as a political instrument to inflame the abortion debate through heated and graphic rhetoric. Republican leadership has brought this bill before the House in an effort to grossly mischaracterize abortions in this country.

Mr. Speaker, I can tell that it must be the silly season again, because this bill is about nothing other than election-year politics.

Several reputable medical organizations including the American College of Obstetricians and Gynecologists, and the American Medical Women's Association oppose this ban. Even the American Medical Association has withdrawn their support. We should not be interfering with the very personal, ethical, and medical decisions made between a patient and a doctor.

The Supreme Court specifically recognizes a woman's right to choose a safe abortion under the principles of Roe v. Wade and I will not support any bill designed to erode that fundamental right.

Mr. CHAMBLISS. Mr. Speaker, we have an opportunity today in the House of Representatives to pass H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. This legislation will outlaw the deplorable procedure known as partial-birth abortion.

This issue is important to my state of Georgia, where in 1997, then Governor Zell Miller signed the ban on partial birth abortion into state law. This body has garnered nearly 300 supporters for each of the four separate times we have had the opportunity to cast votes on this important matter.

The American Medical Association concludes that partial-birth abortion is ''not an accepted medical practice,'' while a wealth of other medical research shows this procedure is never medically necessary.

This is not a partisan issue, Senator Daniel Patrick Moynihan the retired Democratic Senator from the State of New York, known for giving voice to the public conscience, compared the procedure to murder by stating, ''It is as close to infanticide as anything I have come upon in our judiciary.'' I agree with Senator Moynihan, partial-birth abortion is brutal and ruthless and must be banned. It is a disgrace that this reckless disregard for innocent young life is permitted here in United States of America.

I urge my colleagues to vote in favor of H.R. 4965 and I remain hopeful that we will be able to outlaw this despicable procedure once and for all.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H.R. 4965, ''The Partial Birth Abortion Ban.''

Today's debate on this issue is offensive. It's an insult to millions of women in this country and political grandstanding at its worst. For each of the past three sessions of Congress, the House has debated and passed this bill. It has never become law. The Supreme Court has already ruled this type of ban to be unconstitutional having struck down an almost identical Nebraska law.

The truth is ''partial birth abortion'' is a political term, not a medical one. Republicans have included a fuzzy definition in this bill that could take away protected representative freedoms. At best, they would ban what is almost always an emergency procedure performed to protect the health of a mother.

This is highly personal decision—and an emotionally difficult one—that is best left to a woman and her doctor. Congress shouldn't tie the hands of physicians by making it illegal for them to make sound medical decisions that could save their patient's life. This should not be a political issue!

We ought to be respectful of the deeply personal tragedies involved. Instead, Republicans exploit them for political purposes. They jubilantly jump on this issue like it's a new Tonka truck at Christmas, when they ought to consider what this experience is like for the women involved. They ought to think about the real facts, not just the extreme rhetoric and gory pictures on the latest Christian Coalition voting card.

Most of the women involved are expectant mothers that encounter medical difficulties near the end of their pregnancy and must undergo this painful, but safe procedure to save their life. Others are the victims of sexual assault who often don't come to terms with their pregnancy until well into the second trimester. Imagine the painful process of determining whether you will bear the child of someone who has raped and assaulted you. These women have a right to make this choice. This bill provides no exemption for this basic freedom.

Indeed, this bill is yet another deceptive hoax in a protracted assault against the rights of women and all Americans. We must never let the right to choose be taken away just as we must never allow another back alley abortion to ever take place in this country again. I urge my colleagues to stand up for the freedom to choose and vote no on this cynical and senseless bill.

Mr. UPTON. Mr. Speaker, I rise today as a cosponsor of the Partial Birth Abortion Ban Act. I urge colleagues to join me in voting decisively in support of this legislation, as we have in the past two Congresses. As a civilized society founded on respect for life, we cannot allow this cruel and dehumanizing procedure to continue.

In these abortions, healthy infants who could survive are brutally killed just a breath away from birth. Although the consensus in the medical community is that this procedure is never necessary to save the life of the mother, this bill does include that exception to the ban.

On many issues that we debate in this body, there are shades of gray and room for honest disagreements on principle and substance. But on this issue, there is no question. There are no shades of gray. Partial birth abortions are acts of evil, pure and simple. They turn the wonder, the miracle, of the birth of a human being into a terrible travesty of horrible death and suffering.

Yesterday, the President and Mrs. Bush announced an adoption initiative to extend the welcome of family to a vulnerable child. Isn't it sadly ironic that we are here today, actually arguing about banning a procedure that dashes the hopes of childless couples for an infant to love and nurture.

The greatness of nation is judged not only by the size of its armies or the strength of its economy, but also by the way it treats its most vulnerable and frail. In the name of simple human decency and of our belief in all this nation must stand for, I call on this body to ban this procedure.

Mr. SHOWS. Mr. Speaker, I rise today in support of H.R. 4965, the Partial-Birth Abortion Ban act.

Mr. Speaker, protecting innocent human life is a preeminent concern of mine. I am opposed to abortion and the gruesome partial birth abortion procedure in particular.

I am as strong an advocate as there can be against the killing of unborn children. As Democratic Whip of the Congressional Bipartisan Pro-Life Caucus, I work closely with my colleagues to stress the importance of passing pro-life legislation such as H.R. 4965, which we are considering today.

Abortion is wrong. Partial birth abortion is the cruelest form of torture and we must put an end to it now, today!

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in opposition to H.R. 4965, the Partial Birth Abortion Ban Act. This bill is unconstitutional and will jeopardize the health of women.

This so-called ''partial birth'' abortion ban is part of a political scheme to sensationalize the abortion debate. The truth is that the phrase ''partial birth abortion'' is a political term, not a medical term. ''Partial birth'' abortion bans have never been about banning one procedure, nor about late term abortions. They are deceptively designed to be intentionally vague in the attempt to ban abortion entirely. This bill opens the door for legislators to ban even more safe abortion procedures.

H.R. 4965 is neither designed, nor written to ban only one procedure, and it deliberately lacks any mention of a viability time line, therefore is applicable through out the pregnancy. These bans are deliberately designed to erode the protections of Roe v. Wade. We cannot sit back and watch the reproductive rights of women in America disappear.

This bill bans a variety of safe and common abortion procedures, both before and after viability, therefore imposing an undue burden on women seeking access to abortion services. This abortion restriction would, without exception, force women to use riskier methods of abortion.

But perhaps the strongest argument against this bill is that it ignores a constitutionally required exception to protect women's health. In 2000 the Supreme Court ruled in the Carhart v. Stenberg case that women are entitled to medical procedures that are found safest for their individual health. The Supreme Court stated unequivocally that every abortion restriction must contain a health exception that allows an abortion when ''necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.'' Anti-choice lawmakers have ignored this constitutional right, and refused to include into their legislation an exception to protect women's health.

H.R. 4965 unduly interferes with the doctor-patient relationships by giving Congress the ability to punish physician and put patients at risk. The American Medical Association, one the largest and most politically active groups of physicians in the U.S., who in the past has often supported abortion bans, withdrew their support on this bill. The following is a statement that was released by the AMA, ''The physician must retain the discretion to make that judgment, acting within the standards of good medical practice and in the best interest of the patient.''

Along with the American Medical Association many other medical organizations oppose this legislation, including the American Medical Women's Association, American Nurses Association, American Public Health Association, American College of Nurse Practitioners, American Medical Student Association, and the Association of Schools of Public Health, to name only a few. These organizations have recognized that it would endanger women's health and inappropriately interfere with medical decision-making. These groups have implored Congress not to intrude into decisions that are more appropriately made by women and their families, in consultation with their physicians. Their medical judgment should not be ignored.

For the safety and the constitutionally required right of women, I urge you to vote in opposition to H.R. 4965.

Mr. WATTS. Mr. Speaker, I rise in support of the Partial-Birth Abortion Ban Act of 2002.

This is an issue that has opened the eyes of many Americans. The rhetoric of ''choice'' is turned on its head when a procedure as barbaric as partial-birth abortion is the subject.

When the Democrat leadership discussed the schedule of the House here on the Floor last week, it was amazing to hear the term ''partial-birth abortion'' partially uttered, then quickly changed to words softening the reality of the procedure we are debating today. To describe partial-birth abortion as a ''certain late-term abortion,'' as many members of the media also do, is factually incorrect. Partial-birth abortions are performed as early as twenty weeks into the life of an unborn child. The devil is always in the details, which is why you will hardly ever hear the fact that thirty-six percent of all abortions in American are on children of African descent.

Those who oppose a ban on partial-birth abortion often admit the procedure is gruesome, yet defend it because they believe it is necessary when a baby deemed imperfect is about to be born. But we must step back and ask ourselves what authority we have to decide who gets to live and who becomes a casualty of choice. The quality of life of an unborn child or an elderly Americans is just as valuable as the life enjoyed by members of Congress.

Let me propose the following scenario to you.

You are a doctor who has been contacted by a patient—a woman in her early thirties. After you examine her medical history, you discover she suffers from tuberculosis. She is not well. Her husband has syphilis—and it is possible she has also contracted the deadly disease.

This lady previously gave birth to four children, three of whom are still living. One is blind and two are deaf. She asks you about terminating this pregnancy with an abortion. You consider her health, her previous births and the state of her children.

What would do yo do?

Well, if you said, ''have an abortion,'' you just killed Beethoven.

Mister Speaker, all life is precious. All life is sacred. And under the Declaration of Independence of the United States, all Americans are endowed by our Creator and have been given an unalienable right to life.

Partial-birth abortion represents the antithesis of civility. It is an insult to humanity. And an overwhelming majority of Americans think it has no place in our country.

This legislation is practical, warranted and, I believe, constitutional. I urge my colleagues to support the bill so the legalized version of infanticide known as partial-birth abortion will never again take the life of an innocent, precious baby in our great nation.

Mrs. LOWEY. Mr. Speaker, my colleagues, we are here today, considering a ban on so-called ''partial-birth abortions'' for the eighth time in seven years, because the proponents of this bill want to overturn Roe v. Wade.

This ban is not about outlawing one method of abortion—it's about access to safe abortion methods used throughout pregnancy. It's not about post-viability abortion—it's about the right of all women to choose.

It's about Roe v. Wade. And those who support this ban—much as I respect their convictions—do not want Americans to hear that because they know Americans support to right to choose.

Roe v. Wade guaranteed that right to choose by expressing three very important values that make sense and have been widely accepted by the American people.

First, the decision to terminate a pregnancy is private and personal, and should be made by a woman and her family without undue interference from the government. At the earliest point in pregnancy, the government has no place in this process. Therefore, a state cannot ban access to abortion before fetal viability, the point at which a fetus can live outside of the woman.

Second, a woman must never be forced to sacrifice her life or damage her health in order to bring a pregnancy to term. The woman's life and health must come first and be protected throughout pregnancy.

Third, determinations about viability and health risks must be made for each woman by her physician. A blanket government decree on medical determinations is irresponsible, offensive, and dangerous.

Despite the Supreme Court's decision in Stenberg v. Carhart—which confirmed these principles—H.R. 4965 clearly rejects each of these values.

The Court made clear that a ''partial birth abortion'' ban was extreme and dangerous because it limited safe options for women and failed to protect the health of women. Yet the bill before us contains no mention of fetal viability, no protection for the health of the woman, and leaves no role for the physician treating a woman. The government makes all the decisions.

The proponents of the bill may deny it, but their tireless efforts to ban so-called ''partial birth abortions'' is in fact a calculated, nationwide effort to undermine support for Roe v. Wade. Please do not be fooled by today's charade, this is just another attempt to make abortion illegal.

My colleagues, we believe that women matter. We believe their lives are irreplaceable and worth protecting. That is why we oppose this ban.

I urge my colleagues to respect the law of the land by supporting the values in Roe v. Wade and Stenberg v. Carhart—let's leave decisions in the hands of families and protect the health of women. Vote against this terrible harmful bill.

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

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Pursuant to House Resolution 498, the bill is considered as having been read for amendment and the previous question is ordered.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. BALDWIN

Ms. BALDWIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. BALDWIN. Yes, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. BALDWIN moves to recommit the bill H.R. 4965 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

In section 3, of the bill, in proposed new section 1531 of title 18, in subsection (a), strike ''that is necessary'' and all that follows through ''itself.'' and insert ''where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.''.

Ms. BALDWIN (during the reading). Mr. Speaker, I ask that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 5 minutes in support of her motion.

Ms. BALDWIN. Mr. Speaker, I rise today to offer a motion to recommit with my colleague, the gentlewoman from Texas (Ms. JACKSON-LEE), that would provide an exception in order to protect the health of the mother.

The families that are affected by this bill are dealing with the tragic circumstances of crisis pregnancies. In most cases, they have just learned that their babies will not survive. They are then confronted by choices that none of us would wish upon any human being. This is the context and these are the circumstances under which this legislation comes into play. And any suggestion to the contrary deceives the American public about the realities of this issue.

The experiences that families face with crisis pregnancies are real. Their stories demonstrate the need for this exception to protect the health of the mother. Kathy and Chris, from Wisconsin, were married and were excited when they found out that Kathy was pregnant 6 years ago. They received the best prenatal care for their baby, and the pregnancy seemed to be going fine. She was over 6 months along when they went to their doctor to have an ultrasound and discovered that their baby was developing with no brain. There was a tumor in the baby's brain cavity and other factors that would compromise and jeopardize Kathy's health. Her doctor recommended that she have an abortion.

Imagine the pain of these parents who so much wanted to have this child. Tragically, their doctor could not locate a provider in Wisconsin, so they also had to travel over a thousand miles to Colorado. After extensive tests, the doctor in Colorado determined that this procedure was medically necessary to protect Kathy's health. Because of the stigma associated with this procedure, neither Chris nor Kathy even told their parents that they had to have this procedure. But now she is speaking out because she believes that women must know that when they are faced with an extremely dangerous pregnancy, they deserve the right to protect their own health.

Typically, women who must face this decision want nothing more than to have a child and are devastated to learn that their baby would not survive outside the womb. In consultation with their doctors and families, they make difficult decisions to terminate pregnancies, to preserve their own health, and, in many cases, to preserve their ability to have children in the future.

This was the case for Kathy and Chris, who, because they took steps to terminate her first pregnancy, now have a beautiful 4-year-old son, Frederic. How can we look a woman like Kathy in the eye and tell her that she cannot have a safe procedure that would preserve her health and give her the best chance to have children in the future? Our compassion alone should be sufficient to justify a health exemption.

But if my colleagues need more ammunition, the U.S. Supreme Court has made it clear that such an exemption is constitutionally required. In Stenberg v. Carhart, the court, in striking down a Nebraska statute, held that it was unconstitutional because there was no health exception for the mother. The language in this motion is taken directly from that Supreme Court's ruling.

My colleagues, denying a maternal health exemption is wrong and it is unconstitutional. If this bill passes today without the adoption of this motion, women who are already dealing with the tragic consequences of a crisis pregnancy will have their health put in serious danger.

I urge Members to support this motion to recommit on behalf of Kathy, on behalf of all which women who have faced this most difficult decision, and on behalf of Frederic and all the children who have been brought into this world because their mothers had access to safe abortions, including this procedure, and were able to have children again.

Vote for this motion to recommit to preserve the life and health of women.

Mr. Speaker, I yield 40 seconds to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, I would like to, as the cochair of the Congressional Pro-Choice Caucus, I would like to extend my thanks and the thanks of the caucus to the gentlewoman from Wisconsin for bringing this motion to recommit, and also to the gentleman from New York for managing the time on the bill, and the entire Committee on the Judiciary for their tireless work.

Our view is this: Given Stenberg v. Carhart, we need to decide are we going to pass a constitutional bill or not. This motion makes it constitutional. We urge a ''yes'' vote on the motion to recommit.

Ms. BALDWIN. Mr. Speaker, I yield the balance of my time to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I join her in offering this motion to recommit.

Let me simply state that in the State of Texas, where then-Governor Bush, now President Bush, presided, included in the provision of their ban on this procedure was an exemption for the health of the woman. This is all that we are asking for today. This is a medical procedure, and the only time this is done is when it is needed to save the life or the health of the mother.

Let us vote for this motion to recommit in order to be consistent with the Supreme Court decision in Stenberg.

Mr. CHABOT. Mr. Speaker, I rise in opposition to the motion to recommit.

This motion to recommit should be opposed for several reasons. The overwhelming weight of the evidence compiled in a series of congressional hearings indicates that partial-birth abortions are never necessary to preserve the health of a woman and, in fact, pose substantial health risks to women undergoing the procedure.

No controlled studies of partial-birth abortions have been conducted, nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. There have been no articles published in any peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures, nor did the plaintiff in Stenberg v. Carhart, Dr. Leroy Carhart, or the experts who testified on his behalf, identify even a single circumstance during which a partial-birth abortion is necessary to preserve the health of the woman.

In fact, according to Dr. Carhart's own testimony, when he has chosen to perform a partial-birth abortion, he has done so based upon the happenstance of the presentation of the unborn child and not because it was the only procedure that would have preserved the health of the mother.

Dr. Martin Haskell, the physician credited with developing partial-birth abortions, has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired result. Furthermore, leading proponents of the partial-birth abortion acknowledge that it poses additional health risks because, among other things, the procedure requires a high degree of surgical skill to pierce the infant's skill with a sharp instrument in a blind procedure. In other words, they cannot really see what is going on.

Dr. Warren Hearn has testified that he had ''very serious reservations about this procedure,'' and that he ''could not imagine a circumstance in which this procedure would be the safest.''

□ 1815

Although he was opposed to legislation banning partial-birth abortions, he also stated, ''You really cannot defend it. I am not going to tell somebody else that they should not do this procedure. But I am not going to do it.'' He has also stated, ''I would dispute any statement that this is the safest procedure to use.''

The procedure also poses the following additional health risks to the woman: an increase in a woman's risk of suffering from cervical incompetence as a result of a cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child and the footling breech position, a procedure which, according to ''Williams Obstetrics,'' a leading obstetrics textbook, ''There are very few, if any, indications for . . . Other than delivery of a second twin''; and a risk of iatrogenic and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock and could ultimately result in maternal death. Let me repeat that. Maternal death, mother's death. This also creates a high risk of infection should she suffer a laceration.

Finally, a health exception, no matter how narrowly drafted, gives the abortionist unfettered discretion in determining when a partial-birth abortion may be performed; and abortionists have demonstrated that they can justify any abortion on this ground. Dr. Warren Hearn of Colorado, for example, the author of the standard textbook on abortion procedures, who also performs many third-trimester abortions, has stated: ''I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health.'' Let me repeat that: ''I will certify that any pregnancy is a threat to a woman's health and could cause grievous injury to her physical health.''

So it is clear, then, that a law that includes such an exception would not ban a single partial-birth abortion. A partial-birth abortion ban with this so-called health exception is nothing but a sham. It would not prevent any partial-birth abortions at all, and our goal in this is to protect both unborn children and women in this country by

once and for all stopping this horrible procedure.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. BALDWIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and 9 of rule XX, the Chair announces that this 15-minute vote will be followed by a 5-minute vote on passage, if ordered, followed by a 5-minute vote on the motion to suspend the rules and agree to House Current Resolution 188 on which further proceedings were postponed on Monday.

The vote was taken by electronic device, and there were—ayes 187, noes 241, not voting 6, as follows:

[Roll No. 342]

AYES—187

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clyburn
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frelinghuysen
Frost
Gephardt
Gilchrest
Gilman
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kelly
Kennedy (RI)
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kolbe
Kucinich
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Obey
Olver
Ose
Owens
Pallone
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—241

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bereuter
Berry
Bilirakis
Blunt
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
LaFalce
LaHood
Lampson
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Mascara
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Pascrell
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Stenholm
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Bonior
Condit
Knollenberg
Stearns
Traficant
Weldon (PA)

□ 1841

Mrs. WILSON of New Mexico, Mr. PASCRELL, Ms. KAPTUR and Mr. ROSS changed their vote from ''aye'' to ''no.''

Ms. KILPATRICK, Mr. TANNER and Mr. HORN changed their vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 274, noes 151, answered ''present'' 1, not voting 8, as follows:

[Roll No. 343]

AYES—274

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
King (NY)
Kingston
Kleczka
LaFalce
LaHood
Lampson
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Manzullo
Mascara
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn

Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spratt
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—151

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Blagojevich
Blumenauer
Boehlert
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Dooley
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank
Frost
Gilman
Gonzalez
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Holt
Honda
Hooley
Horn
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kilpatrick
Kind (WI)
Kirk
Kolbe
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Morella
Nadler
Napolitano
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Stark
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED ''PRESENT''—1

Kucinich

NOT VOTING—8

Bonior
Condit
Cunningham
Knollenberg
Phelps
Stearns
Traficant
Weldon (PA)

□ 1849

Mr. LEWIS of Georgia changed his vote from ''aye'' to ''no.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CUNNINGHAM. Mr. Speaker, on rollcall vote 343 concerning partial-birth abortion, I was detained. Had I been present, I would have voted ''aye.''

SENSE OF CONGRESS THAT CHINA SHOULD CEASE PERSECUTION OF FALUN GONG PRACTITIONERS

The SPEAKER pro tempore (Mr. LAHOOD). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 188, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 188, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 14, as follows:

[Roll No. 344]

YEAS—420

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

NOT VOTING—14

Bachus
Barcia
Bonior
Condit
Conyers
Dicks
Foley
Gephardt
Issa
Istook
Knollenberg
Stearns
Traficant
Weldon (PA)

□ 1859

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1900

IN THE MATTER OF REPRESENTATIVE JAMES A. TRAFICANT, JR.

Mr. HEFLEY. Mr. Speaker, I call up the privileged resolution (H. Res. 495) in the matter of JAMES A. TRAFICANT, Jr., and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 495

Resolved, That, pursuant to Article I, Section 5, Clause 2 of the United States Constitution, Representative James A. Traficant, Jr., be, and he hereby is, expelled from the House of Representatives.

The SPEAKER. The resolution constitutes a question of the privileges of the House and may be called up at any time.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Before our debate begins, the Chair will make a statement about the decorum expected in the Chamber.

The Chair has often reiterated that Members should refrain from references in debate to the conduct of other sitting Members where such conduct is not the question actually pending before the House, either by way of a report from the Committee on Standards of Official Conduct, or by way of another question of the privileges of the House.

This principle is documented on pages 174 and 703 of the House Rules and Manual and reflects the consistent rulings of the Chair.

It is also well established that indecent language either against the proceedings of the House or cast against its Membership is out of order.

Disciplinary matters, by their very nature, involve personalities. The calling up of a resolution reported by the Committee on Standards of Official Conduct or the offering of a resolution as a similar question of the privileges of the House embarks the House on consideration of a proposition that admits references in debate to a sitting Member's conduct.

This exception to the general rule against engaging in personality, admitting references to a Member's conduct when that conduct is the very question under consideration by the House, is closely limited.

This point was well stated by the Chair on July 31, 1979, as follows: while a wide range of discussion is permitted during debate on a disciplinary resolution, clause 1 of rule XVII still prohibits the use of language which is personally abusive.

This was reiterated by the Chair as recently as January 27, 1997. It also extends to language which is profane, vulgar or obscene and to comportment which constitutes a breach of decorum.

On the question about to be pending before the House, the resolution offered by the gentleman from Colorado (Mr. HEFLEY), as chairman of the Committee on Standards of Official Conduct, Members should confine their remarks in debate to the merits of that precise question.

Members should refrain from remarks that constitute personalities with respect to members of the Committee on Standards of Official Conduct, with respect to other sitting Members whose conduct is not the subject of the pending report, or to Members of the other body.

The Chair asks and expects the cooperation of all Members in maintaining a level of decorum that properly dignifies the proceedings of this House.

As always, the galleries must refrain from any manifestation of approval or disapproval of the proceedings.

Pursuant to clause 4 of rule XVII, the Chair intends to take necessary initiatives to ensure proper decorum.

MOTION OFFERED BY MR. LATOURETTE

Mr. LATOURETTE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LATOURETTE moves to postpone further consideration of House Resolution 495 until September 4, 2002.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Ohio (Mr. LATOURETTE) is recognized for 1 hour.

Mr. LATOURETTE. Mr. Speaker, as a first matter of business, I ask unanimous consent to yield 30 minutes of my time to the gentleman from Colorado (Mr. HEFLEY), the distinguished chairman of the Committee on Standards of Official Conduct, and further ask that he be permitted to yield time from that 30 minutes.

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

There was no objection.

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

Mr. Speaker, my motion to postpone would postpone the proceedings until a date certain, as a matter of fact, the day we would return from recess.

Mr. Speaker, this is a historic moment in the House of Representatives. Not since 1861, nearly 120 years ago, has the House expelled one of its Members. As we consider the resolution of expulsion today, it seems to me that we should do so with all the care and due regard for both this institution and the individual involved. This institution makes the Nation's laws; therefore, we have the obligation to be more concerned with the rule of law and the observance of law than any other institution in America.

Mr. Speaker, I wish I could take credit for those words, but I cannot. Those words were spoken by the Honorable Louis Stokes in 1980, the only other time that the House of Representatives has taken upon this course of action since the American Civil War; and on that particular occasion, which was the expulsion vote of Representative Myers of Pennsylvania, Congressman Stokes rose and made the same motion that I am making here this evening.

I would ask Members to pay attention to the similarities between where we find ourselves today and where the Congress found themselves in 1980, the only other time that this happened in this Congress's history, again, since the Civil War. Representative Myers had been convicted by a jury of a felony, of felonies. Representative TRAFICANT has been convicted by a jury of felonies. Representative Myers was pending sentence and had not been sentenced on the date that the resolution was brought to the floor. Congressman TRAFICANT has not been sentenced by the judge in Ohio. The House considered the resolution against Representative Myers on the last day before Congress left town for a 1-month recess in 1980. Tonight, we are 2 days from a 1-month recess in 2002. Representative Myers was caught on videotape accepting $50,000 from an individual who was dressed up as an Arab sheik; he admitted his conduct before the Committee on Standards of Official Conduct. Congressman TRAFICANT, in his case, there is no videotape, there is no audiotape, there are no fingerprints, and he has denied the allegations.

In this matter, although there were numerous witnesses that testified in the proceeding in Cleveland, Ohio, in Federal court, I would submit to Members, in my opinion, it boils down to a case of direct testimony in conflict. There are, and those of my colleagues that have practiced law know that there is something that we prosecutors used to do called ''putting lipstick on the pig,'' and you would have one witness that was seminal to your case, but you would call on other witnesses to say oh, I went to the bank, or I picked up the newspaper that morning, or I did this or I did that, seemingly to corroborate the main witness's testimony.

I would give an example, because since I have traveled the floor since this matter came about, the one count, although all are serious, and I will tell my colleagues right now, so that there is no confusion about where I come from, that if Congressman TRAFICANT committed these acts, I will vote to expel him, because they are reprehensible.

The most serious example that has been given to me as I have talked to other Members on the floor deals with kickbacks, the allegation that a member of his staff was hired and was required to deposit his congressional paycheck and every month take $2,500 in cash and deliver it to the Congressman.

Over the course of time, and this fellow's name was Sinclair. Over the course of time that this was alleged to have occurred, it would have been $2,500 a month for the months of his employment; it adds up to $32,500. During the same period of time, the government also indicated that Congressman TRAFICANT had received $13,000 in cash bribes from another individual.

That is count 3, not only on the indictment, but also the charges before us this evening.

The government introduced witnesses that said that, in fact, Mr. Sinclair went to his bank, deposited his congressional paycheck and took out $2,500 in cash. Mr. Sinclair also came forward and indicated that he brought some burnt envelopes to the FBI, the Federal Bureau of Investigation and said that Mr. TRAFICANT, after suspicion was cast upon him, brought him the cash back in the burnt envelopes; and that was introduced as evidence as well.

The competing evidence, and why it is conflicting and why it is different than Representative Myers where we have a videotape and audiotape and other matters is that 1,000 documents were submitted to the FBI lab, one of the best in the world, if not the best, and no fingerprints are found on any money, any envelopes, any plastic bags, nothing.

Further, I would tell my colleagues that they looked at Congressman TRAFICANT's bank account as well. Over the same time period, over the 2 years, he had deposits of $7,600. If the government's case is to be believed on that point and, again, we are talking about direct evidence; I am not asking anybody to subscribe to my view of the evidence, but about $40,000 is missing. Now, I would note, and I would ask what we used to ask in the law business, Members of Congress to take judicial notice, we know that that $40,000 was not spent at Brooks Brothers.

We have an issue where Mr. Sinclair says, this is what happened. Congressman TRAFICANT says, it did not. And that creates the backdrop for why I decided to file this motion, the same motion that was introduced by Louis Stokes in 1980.

When this matter came before the Committee on Standards of Official Conduct, and I want to give praise at this moment in time to the gentleman from Colorado (Mr. HEFLEY), the chairman of that committee, who has the toughest job in the House of Representatives, for his work. And I also want to commend the gentleman from California (Mr. BERMAN), the ranking member, not only because he has the second toughest job, but I just want to, just as a personal, point of personal privilege for a minute, when I filed this motion, I was originally told that there may be some who would seek to file a motion to table so we could not even have this discussion this evening. The gentleman from California (Mr. BERMAN) worked very hard to make sure that I had the opportunity to speak tonight and those who wanted to agree with me, and I thank him very much.

This sets the backdrop for what I think brings us here this evening, or at least me here this evening, and it is a fellow by the name of Richard Detore. Richard Detore is an individual who was indicted in a superseding indictment to the Congressman. He did not testify at the trial, because he has fifth amendment concerns. He did come against those concerns to testify before the Committee on Standards of Official Conduct in open session.

He testified, and again, we were free to believe or disbelieve, but that is not the point, and we will get there from here, that he was asked by the assistant United States Attorney to tell a story, and the story was that he was in a room here in the Capitol and he overheard a conversation between a fellow by the name of J.J. Cafaro and another individual wherein it was discussed that Congressman TRAFICANT was being bribed in return for favors, and the specific favor had to do with technology, laser technology for landing airplanes, which most of you voted for if you voted for AIR 21.

Mr. Detore testified to us, and again he did not appear at trial, that when he declined, and he said, I will tell you anything that I do know; he was originally given a grant of immunity: I will tell you anything that I do know, but that is not true, that did not happen. First, he was threatened with the Internal Revenue Service. Next, it was indicated to him that he would be charged with bank fraud. I want my colleagues to listen to the description of bank fraud because this is very telling.

When he got the job with U.S. Aerospace Group, he was promised employment of $240,000 a year. His employer, one of the accusers of the Congressman, gave him a letter saying, you are going to be the new CEO of this company and you are going to make $240,000. He took that letter to the bank to get a mortgage, as I think many of us in this room have done. When the accuser in another count of the Congressman told the story, he said, you know, you can get him, because we never signed his employment agreement. So his using the letter saying we are going to pay him in the future, he did not have a signed employment agreement; he has committed bank fraud.

When he did not believe that, and no reasonable human being would, he said they would indict him. He said, you know what? Indict me. And he stands indicted today.

Since his testimony, again, not seen by the jury, a juror in Cleveland, Ohio, has come forward to the newspaper; and, Mr. Speaker, I will introduce an article for the RECORD appearing in the Cleveland Plain Dealer on July 20 written by an excellent journalist by the name of Sabrina Eaton, and the headline is: ''Traficant juror changes his mind; now convinced conviction was wrong,'' and I will include the article in the RECORD at this time.

TRAFICANT JUROR CHANGES HIS MIND; NOW CONVINCED CONVICTION WAS WRONG

(By Sabrina Eaton and John Caniglia)

WASHINGTON.—A juror who helped convict U.S. Rep. James Traficant says his vote to find the Youngstown congressman guilty of 10 felonies in April was a mistake. He says he changed his mind after watching televised testimony before a House ethics panel this week.

''I know it's after the fact, but now I believe that there's no doubt that the government was out to get him, and if they want you, they'll find enough evidence to make you believe that the Earth is flat,'' said Leo Glaser of Independence, who was juror No. 8 at Traficant's nine-week trial in Cleveland.

Glaser, 54, said he was swayed by the testimony of Richard Detore, a Virginia executive accused of bribing Traficant. Detore, who faces trial in October, chose not to testify in Traficant's trial because he could have hurt his own case. But he did give his version to a House ethics panel that later recommended that Traficant be tossed from his job.

Detore told the panel he hadn't tried to bribe Traficant and that the chief prosecutor in the case against Traficant, Assistant U.S. Attorney Craig Morford, urged him to fabricate a story to say he overheard Traficant seeking favors from Youngstown businessman John J. Cafaro in exchange for political influence. He said his refusal to lie about Traficant resulted in his own indictment.

Morford, who was unable to present his side of the story when Detore testified in Washington, yesterday categorically denied ''any improper conduct'' and said Traficant brought up the same allegations last year in legal motions that were rejected by Judge Lesley Wells. He declined to comment on Glaser's statements.

Under federal law, Glaser's change of heart won't change the verdict against Traficant. Although it's unusual for jurors to change their minds after a trial, Case Western University law professor and political scientist Jonathan Entin said Traficant probably won't succeed if he tries to use Glaser's reversal to appeal the verdict, because Detore voluntary refused to testify in Cleveland.

Madison Republican Rep. Steve LaTourette, a member of the ethics panel that recommended Traficant's expulsion on Thursday, said that Glaser contacted his office several weeks ago to discuss the case but that ethics committee lawyers barred him from talking to the juror because of his role in deciding Traficant's fate.

LaTourette said he'll ask Speaker Dennis Hastert to bring Glaser's concerns to the attention of the House of Representatives before it decides whether to eject Traficant next week.

Another ethics committee member, Cleveland Democrat Stephanie Tubbs Jones, said she wasn't sure how Glaser's statements would affect Traficant's case.

''He's certainly not the first juror to reconsider his decision after a trial,'' Tubbs Jones said.

Glaser, who came to public attention when a Cleveland judge dismissed a traffic citation he was issued while trying to feed a homeless man during the 1996 holiday season, said he would have voted to acquit Traficant of all charges if Detore had testified at the bribery and racketeering trial.

''It would have give me reasonable doubt,'' said Glaser, a design technician at the Cleveland Electric Illuminating Co., who has twice run for mayor of Independence.

But other jurors said the evidence, with or without Detore's story, buried Traficant. Traficant's employees said he made them give kickbacks from their salaries and do unpaid work on his farm and boat. Local contractors said they gave Traficant bribes in exchange for assistance. Wells is scheduled to sentence Traficant on July 30.

''There was just so much evidence in the case and so many witnesses that the wealth of information against [Traficant] was overwhelming,'' said Jeri Zimmerman, a juror

from Mentor. ''I kept saying to myself, 'Please, please show me something, anything, that would make me wonder.' but [Traficant] never did. And the witnesses he called hurt him more than helped him.''

Asked about Detore's testimony before the panel, Zimmerman said: ''That's one person. What about the other 50 people that we saw? The government's case was overwhelming.''

Mr. Speaker, that article is based upon his observation of the hearings here in Washington, D.C.

Then, another juror came forward on Monday of this week and, in pertinent part, his affidavit indicates: ''I did not believe the testimony of the key government witnesses, and I did not believe that the government proved that James Traficant committed any offense,'' and I will include this affidavit for the RECORD at this time.

AFFIDAVIT

LORAIN COUNTY, STATE OF OHIO

Affidavit of Scott D. Grodi

Now comes Scott D. Grodi, and being first duly sworn upon oath, deposes and states the following:

1. I was selected as a juror in the case of *United States of America* vs. *James Traficant* in January 2002. I did not know anything about James Traficant at that time.

2. I served on the jury for eleven weeks and was excused by the Judge, without objection from either the government or the defense so that I could take care of family obligations.

3. I listened to the testimony of all government witnesses, all defense witnesses, in addition to hearing closing arguments before being dismissed.

4. When I was dismissed as a juror, I did not believe the testimony of the key government witnesses and I did not believe that the government proved that James Traficant committed any offense.

5. I do not believe today that James Traficant was guilty of the charges brought against him.

Further affiant sayeth naught.

SCOTT D. GRODI.

Sworn and subscribed before me on this the 24th day of July, 2002 by Scott D. Grodi in Lorain County, Ohio.

JOHN P. KILROY.

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Next week, Mr. Speaker, the judge in Cleveland will consider justice in the Myers case, whether or not to pronounce sentence and what that sentence should be, but first will have to dispose of some due process procedural motions filed by the respondent, Mr. TRAFICANT, including a motion for a new trial.

And I will say I do not know everybody in this House well, but I have been here for 8 years, and I would trust that those Members who know me know I am not a black helicopter guy, I am not a big conspiracy theorist, but Mr. TRAFICANT's argument was, if we believe him, that the Government was out to get him because of other things. And I would say to my friend, and particularly my friends from Massachusetts, I would ask my colleagues if they could have imagined that Joseph Salvati could have been a subject of rogue FBI agents and kept in prison by our Government unlawfully for 35 years.

If my colleagues watched the Today Show and they saw the preview of Mr. TRAFICANT's hearing here today, the second story was about a man who had spent 17 years in prison for murder and the prosecuting attorney was in possession of a confession from another individual, but suppressed it and the man spent 17 years in prison.

I would just close at this point with another observation from 1980, and this observation says: ''I too am a former assistant U.S. attorney. I think I share the feelings of all the Members that have had a chance to review those videotapes,'' again, those are the Myers videotapes, ''that the conduct of the Member in question certainly was repugnant to all of the standards that I believe the Nation expects from this Congress, but I have to agree with the gentleman,'' Mr. Stokes, ''that we do not have the responsibility to judge each other's character, unfortunately, and I think until this matter is finally resolved in the courts that we should really come back and address ourselves to the issue in a climate that is not as political as the one we find ourselves in today.'' That was the gentleman from New York (Mr. RANGEL).

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

Mr. HEFLEY. Mr. Speaker, first of all, I yield 15 minutes of my 30 minutes to the gentleman from California (Mr. BERMAN), the ranking member of the Committee on Standards of Official Conduct, for his control of that 15 minutes.

The SPEAKER pro tempore (Mr. HANSEN). Without objection, the gentleman from California (Mr. BERMAN) will control 15 minutes.

There was no objection.

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume. I rise to speak in opposition to the motion by the gentleman from Ohio (Mr. LATOURETTE), and I oppose the motion for the following reasons: The bipartisan membership of the Committee on Standards of Official Conduct has worked diligently, and I think fairly, over the course of several months, and this has brought us to the resolution under consideration today to expel Representative TRAFICANT. The committee following regular order has placed this matter in the hands of the leadership to schedule it whenever the leadership deemed appropriate.

In fact, when asked what I wanted in this, I said, ''If you let it lay over until September, that is fine with me. If you schedule it now, that is fine with me. Whatever you think is best for the schedule, that is fine with me.'' They scheduled it for tonight, and so tonight is the night that we need to do this business.

The committee reached its decision to sustain nine counts of misconduct against Representative TRAFICANT based on clear and convincing evidence before it. In an article in the Youngstown, Ohio Vindicator, dated July 23, yesterday, the juror, I think the same juror that Mr. LATOURETTE mentioned: ''Leo Glaser said today that his vote to convict U.S. Representative James A. Traficant, Jr., stands. Glaser, juror number 8 in the Federal District Court trial in Cleveland, said his quotes in a newspaper story over the weekend were somewhat inaccurate.

''He said he found the headline in the Cleveland Plain Dealer story, 'Traficant juror changes his mind; now convinced conviction was wrong,' especially inaccurate.'' So while I have sympathy for what Mr. LATOURETTE is trying to do, I do not know if this juror thinks he made the right decision or he did not make the right decision. I cannot tell from these stories. But, Mr. Speaker, I would urge that Members vote against this motion.

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

Mr. BERMAN. Mr. Speaker, I yield myself up to 7 minutes.

I oppose the motion of the gentleman from Ohio (Mr. LATOURETTE), who is a very diligent and very valuable member of the committee, who joined in the unanimous vote to recommend expulsion.

A word about the testimony before the committee of Richard Detore, for when we hear the gentleman from Ohio's (Mr. LATOURETTE) argument, we realize that only one issue has come up since the time that the committee recommended expulsion that changes the facts before us since the committee completed its deliberations, and that is the comments of jurors. I will address those comments in a few moments, but first I want to talk about the testimony that I think is underlying some of the concern, that of Richard Detore.

Unlike the jurors in Cleveland, the eight members of our adjudicatory subcommittee, including myself, heard Mr. Detore's efforts to exculpate Mr. TRAFICANT.

We nonetheless determined that the allegations against the gentleman had been proven by clear and convincing evidence, including count 3, the only count, the single count on which Mr. Detore arguably had pertinent firsthand information. Despite his limited familiarity with the full range of charges against Mr. TRAFICANT, Mr. Detore nonetheless spoke with assurance about matters of which he could not possibly have had direct knowledge, including events in Youngstown, of which this Washington area resident could not have been aware and private conversations which did not include him.

He testified about conversations between Mr. TRAFICANT and J.J. Cafaro, a business plan for whom Mr. TRAFICANT secured a $1.3 million appropriation and who engaged in a sham transaction involving $13,000 in cash and $26,000 additionally in repairs and boat slip fees in a sham transaction pretending to buy Mr. TRAFICANT's boat. Cafaro and the former USAG chief engineer, Al Lange, Cafaro and Cafaro Company treasurer Dominic Roselli, and Cafaro and his accountant Patricia DiRenzo.

Mr. Detore testified on all of these conversations and there is not a bit of evidence that he was a party to or a participant in any of these conversations.

The adjudicatory subcommittee found Mr. Detore either lacking in credibility or found his testimony outweighed by the overwhelming evidence against Mr. TRAFICANT.

It has been argued that as an indicted co-defendant, which he is, he placed himself in great peril by testifying before our committee and that this bolsters his credibility. I think it can be argued just as well that this was his Hail Mary pass to discredit the Assistant U.S. Attorney before his case goes to trial. Mr. Detore clearly demonstrated that ours is the forum where he intended to try to save his neck.

He has repeatedly failed to show up at pretrial hearings in Cleveland citing ill health, yet he managed to make a surprise appearance before our committee last week, testifying for hours late into the night. For that reason, he is now facing contempt charges in Cleveland, charges that he and the gentleman from Ohio will doubtless argue is further evidence by their persecution by the Assistant U.S. Attorney.

Casting further doubt on the voracity of Mr. Detore's allegations of misconduct by the assistant U.S. attorney, is the fact that he similarly hurled accusations of misconduct against the staff of the Committee on Standards of Official Conduct, staff which we know to a certainty acted appropriately and the allegations are patently false.

Let us look at the recantations by juror Leo Glaser. He has been cited as saying that he heard at trial the testimony he heard of Mr. Detore last week. If he had heard that, he might not have voted to convict. I would point out that the conclusion of the Adjudicatory Subcommittee and the recommendation that the gentleman be expelled were based not to the conviction, but on the evidence presented at trial.

Furthermore, Mr. Glaser has gone on to say to the press that he also did not have the opportunity to hear how the Assistant U.S. Attorney might have cross-examined Mr. Detore so he cannot be sure how he would have weighed the Detore testimony. Nor does he know what his fellow jurors might have argued in their deliberations after Mr. Detore's testimony in cross-examination.

And finally, Mr. Detore could have testified at trial. Mr. TRAFICANT did not call him. We do not know whether he would have taken the fifth amendment at trial. He did not take it in our Committee on Standards of Official Conduct hearing. If anyone denied Mr. Glaser the opportunity to hear Mr. Detore during the trial, it was the gentleman from Ohio. It is intriguing to me that suddenly Mr. Detore is made available to make a statement to us.

With regard to the second juror, he did not even participate in the jury deliberations at all. He left the jury to attend a family funeral, an alternate was selected. He has no idea what the give and take was inside the jury room during the deliberations.

Let me reiterate that unlike the jurors in Cleveland, we did hear from Mr. Detore, yet we were not persuaded. We voted for the count with regard to which he testified, count 3, and for eight other counts, finding that the evidence established by clear and convincing evidence that the rules of the House have been violated.

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

Mr. LATOURETTE. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. CALLAHAN).

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

Mr. CALLAHAN. Mr. Speaker, I do not rise tonight in defense of guilt or innocence of our colleague, the gentleman from Ohio (Mr. TRAFICANT). I rise tonight in a sense of what I think is fairness. I have a tremendous respect for this body and an overwhelming respect for the Committee on Standards of Official Conduct and the difficult job that they have. I too compliment the gentleman from Colorado (Mr. HEFLEY) and the gentleman from California (Mr. BERMAN), for their tremendous efforts and integrity that has been so prevailed throughout this trial.

I rise tonight in support of this resolution. I am not blessed with a law degree, I do not apologize for that, I just do not have one. But I do know that in court language, when one is going through a trial process, judges sometimes overrule things because of a clause. They say that a bell cannot be unrung. And, indeed, if we tonight ring this bell of guilt against the gentleman from Ohio (Mr. TRAFICANT) during this appeal process, we are only talking about a 6-week delay, in order to make this ultimate decision, in my opinion, it is unfair to my colleague.

I think we ought to give him the benefit of the doubt. It is not professing that we believe he is innocent by delaying this action until September. It is just saying that we are going to give him a chance. Even if someone is convicted of murder in most every State in the Nation, there is always an escape valve because the governor has the right to overturn if evidence is presented that convinces the governor that the defendant is deserving of a new hearing.

What we do tonight is ring the guilt bell upon the gentleman from Ohio (Mr. TRAFICANT) when it is not necessary at this time. Certainly if he is charged with what he is charged with by the Committee on Standards of Official Conduct, and I have no reason to doubt that he has not been charged correctly, then we should act. Certainly we ought to give one of our own colleagues the benefit of doubt. Delay this action for 6 weeks until we get back in September and then vote our convictions.

Mr. HEFLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I rise to urge my colleagues to reject the motion to postpone H.R. 495.

I know how difficult this proceeding is for the gentleman from Ohio (Mr. LATOURETTE), himself a former prosecutor and for the other Members of the Ohio delegation who have served many years with the gentleman from Ohio (Mr. TRAFICANT) and developed close friendships.

If the subject today were a friend and colleague from the Illinois delegation, I cannot say for certain that I would not try to do the same thing. But the subject today is the gentleman from Ohio (Mr. TRAFICANT) and whether this body is best served by postponing the consideration of this resolution until after August.

It is said that there may be new developments in the gentleman's Federal case, and that a month's time might yield a new outcome.

In fact, there was a new development just today in the gentleman from Ohio's (Mr. TRAFICANT) Federal case when a three-judge panel of the U.S. Court of Appeals for the Sixth Circuit denied the gentleman from Ohio's writ of mandamus on a petition relating to jury selection. We heard a great deal about that petition during our hearing, and there is no doubt in my mind that there will be other appeals and other petitions on the gentleman's behalf. But my point is, regardless of whether these approaches succeed or fail in the Federal courts, they are, by no means, relevant to the status of his case in the U.S. House of Representatives.

Why do I say this? For one, our subcommittee did not rely strictly on the transcript from the Federal case.

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We went well beyond it and heard from the gentleman from Ohio's (Mr. TRAFICANT) witnesses, including those who were not allowed to testify on his behalf in Federal court.

Second, our standard of proof is much lower than what a jury faces in a Federal criminal case. In Federal court, it is beyond a reasonable doubt that a crime was committed. In the U.S. House, it is clear and convincing evidence that our code was violated, a very important distinction.

Last, our mission was not to determine whether the gentleman from Ohio (Mr. TRAFICANT) is guilty of a felony count or 10 felony counts. It was to determine whether the gentleman from Ohio (Mr. TRAFICANT) violated the Code of Official Conduct and the Code of Ethics for Government Service, again a very important distinction.

We Members of the House are not a Federal court of appeals nor are we here to second-guess or predict the rulings of juries or judges in the Federal courts of Ohio. We are here to serve our duty under article I, section 5, clause 2 of the Constitution.

As a member of the adjudicatory subcommittee that reviewed the evidence in this case, I would respectfully urge my colleagues to vote against the motion to postpone and for the resolution. Neither justice nor this body will be served by delay.

Mr. BERMAN. Mr. Speaker, I yield myself 1 minute.

I would like to respond to the comments of my very good friend, my colleague from Alabama, because there is a certain quick appeal in the argument that this process is still under way, the sentencing occurs next week, there are appeals, there are writs of habeas corpus following that process.

The motion to postpone is a motion to postpone till September 4. The gentleman from Ohio (Mr. TRAFICANT) has made a motion for a new trial, and that motion has been denied with an extensive opinion by the judge. No one can argue that this appellate process will be even seriously under way, little less completed, by September 4.

The logical conclusion of a process which says we wait until all appeals are exhausted means that the provision of the Constitution which provides that we expel Members for the most egregious behavior is rendered a nullity. I do not think that is what our Founding Fathers intended, and that is not what we should do.

Mr. Speaker, I yield 2½ minutes to the gentlewoman from Ohio (Mrs. JONES), a former judge, a former prosecutor, a great member of our committee.

Mrs. JONES of Ohio. Mr. Speaker, I thank the ranking member, the chairman, and my colleagues who served on the Committee on Standards of Official Conduct. What an experience.

Service on the Committee on Standards of Official Conduct is not a committee assignment for which there is a lot of competition. In fact, it is not even an enviable position. However one is called into service, each Member must accept his or her responsibility and obligation to serve with honor and integrity, consistent with the tradition of this great House of Representatives which we love and revere.

I seriously considered not speaking before the full House, in part because I believe that the misfortunes of one of my colleagues should not be used for political purpose or grandstanding. However, having accepted this responsibility of serving on the Committee on Standards of Official Conduct, I believed it my duty and obligation to speak out in support of the decision that we made and in opposition to delay.

Let me say at the outset that I have known the gentleman from Ohio (Mr. TRAFICANT) for many years. As he stated many times in that hearing, he was a vocal supporter of my candidacy for the Ohio Supreme Court, and for that I will ever be thankful. Some even questioned my ability to serve, and I knew that I could be fair and so did the gentleman from Ohio (Mr. TRAFICANT).

Let me go for a moment to this question about where the money was if the gentleman from Ohio (Mr. TRAFICANT) got the money. If my colleagues got the money, would they put it in the bank?

Let us talk a little bit about these jurors. I have tried many cases, both as a judge and as a prosecutor, and there were many times where jurors, once they rendered that decision, wanted to back up and say, I do not know if that was the right decision; judge, can tell us whether he was guilty or not or whatever it was. Jurors make decisions based on all the facts and evidence that is before them at that particular time, and this is what those jurors did.

The burden was beyond a reasonable doubt, the highest burden of proof in our Nation. Our committee has a job and our committee is, and we are not governed by the same rules that my great colleague, Mr. Stokes, whom I have a lot of respect for, was when he made the motion back on Mr. Myers. Our rules of ethics are different. They are not the same as they were back when Mr. Myers was presented before this House.

The rules say that this body can make a decision to expel a Member prior to sentencing and prior to conviction, and that is what this committee recommended to my colleagues.

We are not a jury. We are not a criminal court. We are in the court of the House of Representatives and the court of public opinion which expects us to do our job, unlike the gentleman from Ohio (Mr. TRAFICANT), but my job is to make a decision right here on the House of Representatives. Vote against the motion.

Mr. LATOURETTE. Mr. Speaker, I yield myself 30 seconds to make the following observation.

Both the distinguished chairman and the distinguished ranking member, I think, said what I have been trying to say. They repeatedly said that we do not know, we do not know this, we do not that. That is the point of laying this over.

Secondly, to my good friend from Illinois, with all due respect, I could be fair if this respondent was from Idaho, Iowa or Timbuktu.

To the gentlewoman from Ohio (Mrs. JONES), my good friend and former colleague who was a prosecutor in Ohio, the rules have changed but justice has not since 1980, I hope.

Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Speaker, the prosecutor allegedly threatened a witness and said if he did not say what he wanted him to say he would be indicted. He did not say what he wanted him to say and he was indicted. That could be prosecutorial misconduct. I do not know. If the court upholds the decision that they have made and they sentence the gentleman from Ohio (Mr. TRAFICANT) to prison, I certainly will vote for expulsion, but I do not know whether there was prosecutorial misconduct.

I do know that two jurors, after watching the ethics hearing, said if we had known and seen what we saw before the Committee on Standards of Official Conduct, we would have voted otherwise. That creates a little bit of doubt in my mind, and I do not know and I do not think any of my colleagues know tonight if the judge might say, hey, because of the jurors' reevaluation of this, maybe we should order a new trial. I do not know if he will do that or not. He may not, but that is his decision.

I do know that he is going to be making that decision next week and he is also going to be making a decision on whether or not to send the gentleman from Ohio (Mr. TRAFICANT) to prison for how long, and for the life of me, and I say this to both my Democrat and Republican colleagues, I cannot understand why we cannot wait until we come back from break to vote on this issue.

That is why I support the motion of my colleague who serves on the Committee on Government Reform with me, and I am sure that he would have the same attitude whether the gentleman from Ohio (Mr. TRAFICANT) was from California, New York or whatever, because that is the kind of man that the gentleman from Ohio (Mr. LATOURETTE) is.

Another reason why I feel very strongly about this is we have had hearings, numerous hearings about what went on in Boston about 30 years ago where they put an innocent man in jail for over 30 years for a crime he did not commit, and I believe all the way up to J. Edgar Hoover, they knew he was innocent, but they were protecting Mafia informants.

So many times there are miscarriages of justice. I am not saying that is the Traficant case, but it happens, and for that reason alone I think we ought to say let us take a deep breath, go on break, come back in 4 or 5 weeks and then vote on this issue. If he is sentenced, if he goes to prison, he should be expelled, and I will vote for expelling, but what in the world is wrong with waiting for 4 or 5 weeks? I simply do not understand that.

Mr. HEFLEY. Mr. Speaker, I yield myself 1 minute, and then I am going to yield to the gentleman from Missouri.

There is a lot that we do not know, as the gentleman from Ohio (Mr. LATOURETTE) said, about the argument that the gentleman from Ohio (Mr. TRAFICANT) made about judicial misconduct or prosecutorial misconduct. There is a lot we do not know about that.

What we do feel we know, however, is that there was clear and convincing evidence on the charges that he was charged with before the Committee on Standards of Official Conduct, and in summary, that is four counts of bribery over a long period of time; that is obstruction of justice; that is defrauding the government through the use of

congressional staff for personal service; and there was false statements on income tax returns. We think we know that by clear and convincing evidence.

Clear and convincing, those of my colleagues who are attorneys know better than I do, equals highly probable. Clear and convincing evidence means it is highly probable that he is guilty of these offenses. It does not equal absolute certainty, and it does not even equal the reasonable doubt standard that the judge mentioned over here. It means it is highly probable. That is what the committee's conclusion was.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, let me say at the outset that I hold the gentleman from Ohio (Mr. LATOURETTE) in highest esteem. Over the course of the past 10 days, during this very long and arduous process, we have agreed and we have disagreed. We have passionately advocated different points of view, and I respectfully disagree with this motion and urge my colleagues to vote down that motion to continue.

What I would like to do is really just address just the folks who may be harboring these thoughts or fears of an acquittal or some different outcome during this appellate process, which I absolutely agree with the gentleman from California (Mr. BERMAN) will not be concluded within 6 weeks.

Our task today, Mr. Speaker, is as different from that criminal jury verdict as the legislative branch is different from the judiciary. Our task tonight is as dissimilar as article I is different and separate and apart from article III.

Unlike the matter that was debated on this House floor on October 2, 1980, in Mr. Myers' case, the Committee on Standards of Official Conduct relied entirely upon the guilty verdicts. Mr. Myers had not been given a full-blown hearing before the Committee on Standards of Official Conduct.

As my colleagues know and has been discussed, we had that hearing. In fact, the gentleman from Ohio (Mr. TRAFICANT) was given great latitude. He was treated generously by a committee of his colleagues who respected the gravity of the occasion which brought us face to face. Would that the gentleman from Ohio (Mr. TRAFICANT) had acted in a reciprocal manner, but even the antics of last week are irrelevant to the decision that was reached by our committee.

We reached our decision on 9 of 10 violations of House rules independent and apart from the jury verdict in Cleveland. So on the process and procedural grounds the gentleman from Ohio's (Mr. LATOURETTE) motion must fail, but on substance, it fails as well.

This witness, Mr. Detore, the committee considered his testimony and rejected it. As the gentleman from California (Mr. BERMAN) pointed out, and let me reiterate, Mr. Detore exonerated himself for the criminal charge with which he was indicted, and yet he offered no defense to the gentleman from Ohio's (Mr. TRAFICANT) kickback scheme of accepting $30,000. Mr. Detore offered no defense on the $30,000 kickback scheme between the gentleman from Ohio (Mr. TRAFICANT) and a congressional staffer. Mr. Detore provided no testimony on the illegal gratuities supplied by constituents to the gentleman from Ohio (Mr. TRAFICANT) at the gentleman from Ohio's (Mr. TRAFICANT) behest.

Mr. Detore offered nothing on the charge of obstructing justice by encouraging others to give false testimony to the authorities.

Mr. Speaker, there has been a lot of reference and comparison between what we are doing today and tonight compared to that same debate that was within these hallowed halls some 22 years ago. Perhaps one other comparison, I hope, is appropriate. The House of Representatives in the Myers case voted down Mr. Stokes' motion 332 to 75. For procedural and substantive grounds, the motion from the gentleman from Ohio (Mr. LATOURETTE) must fail.

Mr. BERMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN), a distinguished member of the committee.

□ 1945

Mr. GREEN of Texas. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I am the newest member of the Committee on Standards of Official Conduct, and like all of my colleagues, I did not want it. In fact, I had to be asked three times by the leadership on our side before I would say yes. But I rise tonight to oppose the motion to postpone until September 4.

This House is more important than any of us individually. We will come and go. Our voters will make that decision. What my concern is what this looks like for our House of Representatives for the future. Sentencing for the gentleman from Ohio (Mr. TRAFICANT) is set for next Tuesday, July 30. We will be in recess until September 4. We could actually have our colleague serving with us and also serving in Federal prison for a month.

I would hope we would not think about us as individuals but think about us as a House and ask ourselves if we want that for our House of Representatives, and not really ours, as Members, but the people of this United States. I do not think it is right, and I do not think it does this House honor.

I will not repeat what my colleagues have said who heard the testimony. I listened to Mr. Detore, and I found that he must be a very nice fellow, but I did not find him to be a credible witness on even the issues he was trying to talk about. I felt like he was out of the loop even on those issues, much less that we need to remember that the jury in Cleveland convicted our colleague of nine other felony counts. The committee found eight other counts and unanimously voted for expulsion.

Mr. LATOURETTE. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Texas (Mr. PAUL).

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

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the motion by the gentleman from Ohio.

It is not easy to do this, obviously, and it is difficult for all of us to be here because it seems like, on the surface, there was unethical, probably illegal, and certainly bizarre behavior, and we feel offended by this and we feel compelled to do something to prove that we are keeping our House in order.

I am not an expert on the legal part of this case. I would not pretend to be, and the Committee on Standards of Official Conduct deserves the credit for the effort they went through to dig out the information. But the process disturbs me, and that is why I wanted to take a minute or two to talk about that.

The point was made earlier that the House's conditions are a lot different than the legal conditions for guilt and, therefore, they are not as stringent. But we would not be here if Mr. TRAFICANT had not been convicted, and so that is key. That is the important issue.

And that trial bothers me. I do not accept it as a good, fair, legitimate trial. I do not think all the witnesses were heard that should have been heard, and I think some of the witnesses may well have been ''bribed'' into doing and saying certain things.

But there is more that bothers me. I would like to see the appeals process completed. I was here in 1984, on my first tour of duty here in the House, and the George Hansen case came up and we voted then to convict. I think he had FEC violations and we voted to censure him. He lost his election, he lost his job, he lost his money, he went to jail and served time, and then he was exonerated on everything. He won all his appeals. I do not see the need to rush to judgment, certainly tonight.

I am not happy that when the gentleman finally gets an opportunity to come and defend himself, he gets a total of 30 minutes. Really? And have my colleagues looked at the record of the case in Ohio? It contains a stack a foot high. Thirty minutes to defend himself? I do not think that is really fair.

But there is another thing that bothers me, and that is the change of venue. I believe that the change of venue has been used historically in this country to make sure that the most horrible criminal gets a fair trial and gets his case moved from a area unduly influenced by media coverage. Have any of my colleagues ever heard of a trial being moved for the benefit of the State and to the disadvantage of the defendant? It may have happened, but I

do not know about it, and I think that in itself is a reason to step back, take a look at this, and vote for the motion by the gentleman from Ohio.

Mr. Speaker, many of Congressman TRAFICANT's actions are impossible to defend. Mr. TRAFICANT has most likely engaged in unethical behavior. I would hope all my colleagues would join me in condemning any member who would abuse his office by requiring his staff to pay kick-backs to him and/or do personal work as a condition of employment. I also condemn in the strongest terms possible using one's office to obtain personal favors for constituents, the people we are sent here to represent. Such behavior should never be tolerated.

However, before expelling a member we must consider more than eccentric behavior and even ethical standards. Questions of whether the process of his court conviction and expulsion from Congress respected Mr. TRAFICANT's constitutional right to a fair trail and the right to be represented of those who elected him to office, are every bit as important.

Many Americans believe that Congress daily engages in ethically questionable and unconstitutional actions which are far more injurious to the liberty and prosperity of the American people than the actions of Mr. TRAFICANT. Some question the ability of Congress to judge the moral behavior of one individual when, to take just one example, we manage to give ourselves a pay raise without taking a direct vote on the issue.

Mr. Speaker, after carefully listening to last week's ethics hearing, I have serious concerns over whether Mr. TRAFICANT received a fair trial. In particular, I am concerned over whether the change of venue denied Mr. TRAFICANT a meaningful opportunity to present his care to a jury of his peers. Usually change of venue is instituted in cases where the defendant is incapable of receiving a fair trial. I am unaware of any case where the venue is changed for the benefit of the state.

However, the most disturbing accusations concern the possibility that Mr. TRAFICANT was denied basic due process by not being allowed to present all of his witnesses at the trial. This failure raises serious questions as to whether Mr. TRAFICANT had the opportunity to present an adequate defense. These questions are especially serious since one of the jurors from Mr. TRAFICANT's criminal trial has told the Cleveland Plain Dealer, that had he heard the testimony of Richard Detore at Mr. TRAFICANT's trial, he would have voted ''not guilty.''

Mr. Speaker, I also question the timing of this resolution and the process by which this resolution is being brought to the floor. Mr. TRAFICANT's conviction is currently on appeal. Many Americans would reasonably wonder whether the case, and the question of Mr. TRAFICANT's guilt, can be considered settled, until the appeals process is completed. I fail to see the harm that could be done to this body if we waited until Mr. TRAFICANT has exhausted his right to appeal.

Prior to voting to expel Mr. TRAFICANT before he has completed his appeals, my colleagues should consider the case of former Representative George Hansen. Like Mr. TRAFICANT, Mr. Hansen was convicted in Federal court, censured by the Congress, and actually served time in Federal prison. However, Mr. Hansen was acquitted on appeal—after his life, career and reputation were destroyed.

If my colleagues feel it is important to condemn Mr. TRAFICANT before the August recess, perhaps we should consider censure. Over the past 20 years, this body has censured, instead of expelled, members who have committed various ethical and even criminal activities, ranging from being convicted of bribery to engaging in sexual activity with underage subordinates.

I am also troubled that Mr. TRAFICANT is only being granted a half-hour to plead his case before the house. Spending only an hour to debate this resolution, as if expelling a member of Congress is of no more importance than honoring Paul Ecke's contributions to the Poinsettia industry, does no service to this Congress.

In conclusion Mr. Speaker, because of my concerns over the fairness of Mr. TRAFICANT's trial I believe it is inappropriate to consider this matter until Mr. TRAFICANT has exhausted his right to appeal.

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

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

Mr. LATOURETTE. Mr. Speaker, it is now my pleasure to yield 3 minutes to the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, it is not easy for a freshman to get up and talk about a Member that I do not know very well. Although I was born in Ohio, I am not here because of some relationship to Ohio. I am a California representative. I was voted by, in my particular case, over 800,000 people I now represent, until we get reapportioned. All of my colleagues got here because of over 600,000 or more voters. They put us here, this body did not. Our governors did not put us here; a court did not put us here.

We are a unique body. We get here by one and only one reason, and that is 1/435th of the country votes to put us here. I do not know the people of Youngstown all that well, but they put the gentleman from Ohio (Mr. TRAFICANT) here, and I take it as an extremely important and extremely solemn duty to decide to take the extraordinary measure of removing him.

I must tell my colleagues that I am also not a lawyer, but I am going to have to decide, hopefully in the next month rather than the next hour, whether or not to, for the second time in modern history, I guess for the second time in history practically, to remove a Member. I do not have enough information.

I respect the gentleman from California (Mr. BERMAN). I respect the chairman. I believe that they have looked at this long and hard. But I have not had the opportunity. And as lawyers often say, I must look at this sua sponte. I am sorry, de novo. See, I am not an attorney. I have to look at this anew, and I am not prepared to do it now. I would appreciate the opportunity to see what the court in Cleveland does over the break. I would appreciate the opportunity to review the records and have my staff assist me. I will probably, when the times comes, vote as my colleagues do.

Now, if I can just make one statement to this body, because there was a reference from one of my colleagues that in fact we had to worry about the image of this body. We will be gone after tomorrow, more or less, for a month. There will be no votes. There will be no activity. Whether the gentleman from Ohio (Mr. TRAFICANT) is a Congressman or an ex-Congressman, he has a cloud that he is living under that he will have to deal with. It will make no difference to them. This body will survive one month of somebody with a conviction not yet sentenced or sentenced and not yet incarcerated.

I believe that if we give it that time, if all of us go and soul-search, take the time to understand the case, when we come back, whatever the vote is, we will feel better for ourselves and for this body if we have taken the deliberative time, and I ask my colleagues to please support this motion to give enough time for us to do the job right. We do not do it that often.

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

I would just sum up with a few statements at this point. This is no rush to judgment. We have been struggling with this for some time. Most of my colleagues have not been as intensely involved with it, nor should you be, because you have other responsibilities and you have given us this responsibility.

The gentleman from Ohio (Mr. TRAFICANT) is not getting 30 minutes to defend himself. He is getting 30 minutes here on the House floor. He had 5 hours before the committee, and it amounted to a great deal more than that because we gave additional time for him. He had the entire hearing process to defend himself.

The gentleman that just spoke said he had not had time to really study it and understand. Well, the trial transcripts have been on the Internet for at least a week. Monday, the exhibits and the transcripts were all delivered to Members' offices. We are busy, and I know it is hard to have time to go through, and it is volumes of material, so I am not criticizing anybody for that, but my colleagues have heard tonight from the members of the Committee on Standards of Official Conduct, members that have been deeply and intensely involved in this over the last few weeks and months, as a matter of fact. And not one member of that committee did I sense was out to get JIM TRAFICANT. I sensed no hint of partisanship in that hearing. And I would suspect that JIM TRAFICANT would agree to that, that there was not a partisanship angle to this in the committee. I think this was a very painful decision for every one of us. JIM TRAFICANT and I have been friends. JIM TRAFICANT has been a friend to most of you in here.

This is not a pleasant time or a pleasant task. If I thought that between now and September 4 the landscape would change substantially, then I might be with the gentleman from Ohio (Mr. LATOURETTE) and say let us put this off until September. But, my colleagues, I must say that the largest single profession represented in the United States Congress is lawyers, so you know, and I am not a lawyer, but my colleagues know that the appeals process can drag on and on and on for months, sometimes for years.

So if we do not do this tonight, I do not know exactly when we are going to do it. I just do not think it is going to change between now and September 4. So I would respectfully ask that Members reject the motion of the gentleman from Ohio (Mr. LATOURETTE).

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

Mr. BERMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN), the ranking member of the subcommittee that investigated and prepared the statement of alleged violations. She has been a member of this committee for 5½ years. She has performed wonderfully far more than her share of the burdens of this committee in this and other matters.

Ms. LOFGREN. Mr. Speaker, as the gentleman from California (Mr. BERMAN) has said, I have been a member of the Committee on Standards of Official Conduct now for 5½ years, and in those 5½ years, in every case, every member of the Committee on Standards of Official Conduct has tried to discharge their duty fairly and to do the right thing. That has always been the goal. There has never been a drop of partisanship in the committee.

As we have worked through this, I think it is important to share what the Committee on Standards of Official Conduct reviewed before coming here today.

We have heard about this Mr. Detore, who was not found to be a credible witness by the adjudicatory subcommittee. But in addition to that testimony offered to the committee, we reviewed 6,000 pages of testimony, more than 50 witnesses for the prosecution, and 29 witnesses called by the gentleman from Ohio (Mr. TRAFICANT).

What we found in the review of the statements of those witnesses that were subject to cross-examination is, regrettably, a pattern of tens of thousands of dollars that were delivered to the gentleman from Ohio (Mr. TRAFICANT) in kickbacks and bribes, the most serious misconduct that we need to address here.

Now, it has been suggested that we delay these proceedings. If we delay to September 4, we will know nothing more than we do this evening. We will not have an appellate decision. We will just know what we know today.

□ 2000

Mr. Speaker, I would note that article I, section 5, says it is for each House to determine with the concurrence of two-thirds whether to expel a Member. It is not for the House to delegate to the judiciary the decision on who is fit to serve in each body.

I would urge that we step up to our unpleasant duty this evening, that we discharge our obligations granted to us under article I, section 5 of the Constitution, and that we act this evening, unhappy as that task may be.

Mr. BERMAN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I want to talk about the quote ''rush to judgment.'' Quite a long time ago, well over a year and a half ago, the Chair and the ranking member of the committee and the staff of the committee were aware of articles talking about indictments, investigations, facts for which there would have been ample evidence for the committee to proceed at that time to investigate totally separate from the criminal justice process.

The committee chairman and the ranking member said no, let us wait; let the criminal justice system work. Let us not rush and push this. We know the complications when there is a dual-track investigation, and we refrained from acting.

There was a trial and there was a conviction, and the only thing this committee did was to make sure they gathered the information and the transcripts from the trial as that trial went on. Now the conviction comes in; and many Members of this body, either proposed or wanted to propose privileged resolutions essentially saying we have a Member of our body, a colleague of ours who has been convicted of 10 felony counts. This is intolerable, we want to expel, and they could have brought a privileged resolution to this floor. We went to those colleagues, and we persuaded them to defer to this process. Let us do it according to the rules, give the subcommittee the adjudicatory committee and the full committee a chance to look at the evidence, gather it, and produce it. We did that.

We come forward in regular order. I ask Members to reject the motion, do not reject the committee's process and the process of restraint and justice that we have shown and vote ''no'' on the motion to postpone.

Mr. LATOURETTE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, again for those colleagues who have been involved in the criminal justice system, I would tell them, and I do not disagree with things that have been said by other members of the committee, Mr. Detore, whom I found to be credible, and with all due respect to the gentlewoman from California, I would ask Members to ask other members of the adjudicatory subcommittee whether they found Mr. Detore to be credible or not, but the difference is this. The committee was left with a cold hard 6,000-page transcript. We were not able to see the accusers of the gentleman from Ohio (Mr. TRAFICANT), whether they sweat, whether they reacted under cross-examination.

Mr. Detore came in, and I just want to read one portion of what I was able to see him say in response to the questions put to him by the committee, the gentleman from Ohio (Mr. TRAFICANT), and counsel for the committee.

He said, ''I have lost faith in my ability to tell my kids to be honest, to be truthful, to be fair to others, and others will be fair to you. This is not where I was born. I don't know what is going on here. This is like having an out-of-body experience in another planet. The amount of treachery, deceit and lies throughout is unbelievable.

''I got a wife laying home with shingles from stress, she can't even move, paralyzed. I have two children crying, upset, a nervous wreck. I have never had situations where I passed out in my entire life. But 2 years of pure hell, and I defy anybody to walk in my shoes. And I could have simply just taken an easy path and just said, okay, I will say what you want me to say.''

I had the chance to see him, and so did the other members of the committee. We were deprived of the opportunity to see any other witness who accused the gentleman from Ohio (Mr. TRAFICANT) of anything. And so the committee was in a position of substituting our judgment as to whether they were more credible than the Congressman, whether they were more credible than Mr. Detore. We had to accept the judgment of 12 jurors, 350 miles and 6 months away.

I made this example in my conference earlier that, again, being a prosecutor, I am familiar with death penalty cases. In a death penalty case if we receive information that something is not right, I think everybody in this Chamber would pick up the phone and call the Governor and say, Governor, we have to give it a couple of days until we check it out because it is irreversible.

What we are being asked to do tonight is the equivalent. It is the political death penalty. We cannot put the toothpaste back in the tube. If the gentleman gets a new trial next Tuesday, we cannot unexpel him next Wednesday. This is final tonight. All we are asking is for Members to follow what Mr. Stokes and the gentleman from New York (Mr. RANGEL) asked the body to do in 1980.

In closing, I want to thank all of the Members who spoke on behalf of our motion, but I want to highlight the comments of the gentleman from California (Mr. ISSA) in particular. I mentioned that both of these motions are occurring days before a month-long recess; and in that debate in 1980 a Member said, ''I think the conduct engaged in by Mr. Myers is reprehensible and, if we do proceed to a final vote on the issue today, I shall vote to expel him. I deeply believe that this is precisely the wrong time for this House to act. I say that for a very simple reason . . .

This is the last week of the session, and almost every Member is doing what I am doing. We are closeted in meetings with our staffs. We are trying to clear the deck to get out of here. We are paying attention not to the Myers case, but we are paying attention to what we have to put into our briefcases to go home . . . I would submit that this is not the correct atmosphere in which to take the historic action which we will be taking today.''

That Member of Congress was the gentleman from Wisconsin (Mr. OBEY), again on October 2, 1980.

Mr. Speaker, I am not asking Members to do anything tricky, anything that violates their conscience. This is a vote of conscience; and I want to thank everybody in the debate, the chairman, the ranking member and all of the members of the committee, and the staff of the committee was tremendous. I agree with everything that Members said. Not one person on that committee was out to get the gentleman from Ohio (Mr. TRAFICANT). Every Member of that committee listened carefully to the evidence.

But I am telling Members, when we have to compare warm bodies who come in and we can see in their eyes and their souls as to whether or not they are credible, and you put that up against a book of 6,000 pages, the book should not win; and the book should not especially win when all we are asking, we are not asking for the appeals process to go through habeas corpus and all of the hoops that may take place, we are leaving on Friday. The first day we come back, if Members want to kick the gentleman from Ohio (Mr. TRAFICANT) out of Congress, we have not lost anything. We could still do it. The only thing we have done is given, and perhaps we will get questions that the ranking member and the chairman asked, we do not know. Maybe on September 4 we will know. I ask Members to think about it.

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

The SPEAKER pro tempore (Mr. HANSEN). All time for debate on the motion has expired.

Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BERMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 146, noes 285, not voting 3, as follows:

[Roll No. 345]

AYES—146

Abercrombie
Aderholt
Bachus
Ballenger
Barr
Bartlett
Bilirakis
Boehner
Bonilla
Boswell
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Cannon
Carson (IN)
Chabot
Chambliss
Clay
Clayton
Clyburn
Coble
Collins
Condit
Cooksey
Costello
Coyne
Crane
Cubin
Cummings
Cunningham
Davis (IL)
Deal
Delahunt
Diaz-Balart
Doolittle
Duncan
Edwards
English
Everett
Foley
Fossella
Gekas
Gibbons
Gillmor
Gilman
Goode
Gordon
Goss
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hart
Hastings (FL)
Hilleary
Hilliard
Hinchey
Hobson
Horn
Hunter
Inslee
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (CT)
Johnson, E. B.
Jones (NC)
Kaptur
Kerns
King (NY)
Kingston
Kucinich
LaFalce
Larson (CT)
LaTourette
Lee
Lewis (CA)
Lewis (KY)
Lipinski
Lucas (OK)
McDermott
McGovern
McInnis
McKeon
McKinney
Miller, Gary
Mink
Neal
Ney
Norwood
Oberstar
Osborne
Ose
Otter
Oxley
Paul
Payne
Peterson (MN)
Peterson (PA)
Petri
Pitts
Pombo
Portman
Pryce (OH)
Regula
Riley
Rohrabacher
Rothman
Rush
Ryun (KS)
Sandlin
Scott
Serrano
Sessions
Sherwood
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Sweeney
Tancredo
Tauzin
Taylor (NC)
Thompson (MS)
Tiahrt
Tiberi
Towns
Traficant
Wamp
Waters
Watkins (OK)
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Young (AK)
Young (FL)

NOES—285

Ackerman
Akin
Allen
Andrews
Armey
Baca
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Bono
Boozman
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (OK)
Castle
Clement
Combest
Conyers
Cox
Cramer
Crenshaw
Crowley
Culberson
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gephardt
Gilchrest
Gonzalez
Goodlatte
Graham
Granger
Graves
Green (TX)
Greenwood
Gutierrez
Hall (OH)
Hansen
Harman
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Isakson
Israel
Istook
Jefferson
John
Johnson (IL)
Johnson, Sam
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
Leach
Levin
Lewis (GA)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Nethercutt
Northup
Nussle
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Pence
Phelps
Pickering
Platts
Pomeroy
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Roukema
Roybal-Allard
Royce
Ryan (WI)
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherman
Shimkus
Shows
Simmons
Skelton
Slaughter
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Tanner
Tauscher
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Thurman
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Watson (CA)
Waxman
Weiner
Wexler
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn

NOT VOTING—3

Bonior
Knollenberg
Stearns

□ 2026

Mr. WYNN, Mrs. EMERSON and Mr. JOHN changed their vote from ''aye'' to ''no.''

Mr. NEAL of Massachusetts changed his vote from ''no'' to ''aye.''

So the motion to postpone consideration was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Colorado (Mr. HEFLEY) is recognized for 1 hour.

Mr. HEFLEY. Mr. Speaker, first of all I would like to yield half of that time, 30 minutes, to the gentleman from Ohio (Mr. TRAFICANT). That leaves me with 30 minutes. And I would like to yield for control of the time, half of that time, 15 minutes, to the gentleman from California (Mr. BERMAN) who is the ranking member of the Committee on Standards of Official Conduct.

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

There was no objection.

The SPEAKER pro tempore. In both cases, the gentleman yields for purposes of debate only.

Mr. HEFLEY. For debate only.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

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

Again I renew my call for the privileged resolution, I think it has been read, so I rise in support of that House Resolution 495 which calls for the expulsion of Representative JAMES A. TRAFICANT, Jr., from the House of Representatives.

On July 17, 2002, the Adjudicatory Subcommittee of the Committee on Standards of Official Conduct held pursuant to the vote requirements of committee rule X that nine of the 10 counts contained in the statement of alleged violations adopted by the Investigative Subcommittee in the matter of JAMES A. TRAFICANT, Jr., had been proved by clear and convincing evidence. These counts involved findings that Mr. TRAFICANT engaged in the following acts that did not reflect credibly on the House of Representatives:

Bribery by trading official acts and influence for things of value; demanding and accepting salary kickbacks from his congressional employees; influencing a congressional employee to destroy evidence and to provide false testimony to a Federal grand jury; receiving personal labor and the services from his congressional employees while they were being paid by the taxpayers to perform public service; and filing false income tax returns.

On July 18, 2002, the full Committee on Standards of Official Conduct held a public sanction hearing to determine what sanction, if any, the committee should recommend to the House of Representatives with respect to the nine counts of the statement of alleged violations proven by clear and convincing evidence in this matter.

With respect to any proved counts against Mr. TRAFICANT, the committee may recommend to the House one or more of the following sanctions: We could recommend a fine, we could recommend a reprimand, we could recommend censure or we could recommend expulsion from the House of Representatives, and two other possible recommendations would be denial or limitation of any right, power, privilege or immunity of Mr. TRAFICANT if permitted under the U.S. Constitution, or any other sanction determined by the committee to be appropriate.

With respect to the sanctions that the committee may recommend, reprimand is appropriate for serious violations, censure is appropriate for more serious violations, and expulsion is appropriate for the most serious violations.

□ 2030

Due to the most serious nature of the conduct in which Representative TRAFICANT engaged, including repeated and serious breaches of the public trust, the committee reported this resolution to the House on July 19, 2002, with its unanimous recommendation that Representative TRAFICANT be expelled from the House of Representatives.

In its 213-year history, the House has expelled only four of its Members. Three of those expulsions occurred during the Civil War and were based on charges of treason. The fourth expulsion was that of Representative Michael J. Myers in 1980 and was based on Representative Myers' conviction on Federal bribery and conspiracy charges arising from the ABSCAM investigation.

It is important to note, however, that the number of actual expulsions from the House should be considered with regard in light of the fact that a number of Members who committed violations of the most serious nature resigned their seats or lost elections before formal action could be taken.

Mr. Speaker, when each of us was sworn in as a Member of the House of Representatives, we took an oath to support and defend the Constitution of the United States. Article I, section 5 of the Constitution states that each House of Congress may punish its Members for disorderly behavior and expel a Member with the concurrence of two-thirds of its Members. One of the last lines of our oath of office states that each of us will ''well and faithfully discharge the duties of the office on which I am about to enter.'' To my thinking, it is this section of the oath that is the focal point of the proceedings tonight.

None of us ever wants to sit in judgment of our peers. There are some unique occasions, however, when the behavior of an elected official violates the public trust to such an extent that we are called upon to uphold this provision of the Constitution that we swore to support and defend.

It is for this reason, and I have to tell you, friends, with a genuine sense of sadness, that I bring this resolution to the floor of the Chamber tonight.

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

The SPEAKER pro tempore (Mr. HANSEN). The Chair recognizes the gentleman from California (Mr. BERMAN).

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

Mr. Speaker, like the chairman, I rise in sadness, but in strong support of the motion to expel. The gravity of the offenses of the gentleman from Ohio against the rules of the House compel us to impose the most severe of sanctions, and thereby uphold the honor and integrity of the people's House.

I say this, and I can say this with certainty, because of the rigor and the evenhandedness of the process undertaken by the committee, consistent with House and committee rules, and with the resolve of a chairman who, in every instance he could, bent over backwards to ensure fairness and afford the gentleman from Ohio a full and fair opportunity to present his defense.

We gave the assertions of the gentleman every consideration. We entertained every motion, admitting into evidence virtually every document he offered, and, despite having the trial transcript before us, nonetheless heard from a number of additional witnesses, including some who had testified for him at trial.

And what was the gentleman's defense? That he paid for the labor and materials provided to him on his farm; that, in the alternative, the farm wasn't his; that he paid for the cars provided to him; that the kickbacks he demanded from the staff were in fact loans voluntarily tendered to him and repaid by him.

But take a closer look. The gentleman had a very busy winter of 1999–2000. The Federal investigation of him had started, and suddenly he was constructing his defense. In December 1999, he transfers the title to his farm to his wife and daughter. He pays J.J. Cafaro $7,000 for three cars that had been given to him from 1997 to 1999, and he pays, this is count two, David Sugar's company $1,100 for work done on the farm 6 months earlier. Not until April of 2000 does Sugar instruct his secretary to create false invoices for the work.

In January 2000, after learning of the investigation, he gives his Congressional employee, Alan Sinclair, $18,500 in cash, indicating that the cash came from Cafaro, telling Sinclair to keep the cash at home to justify the withdrawals he had made from his paycheck. He gives Sinclair a note, again after he knows the investigation is going on, saying, ''They may ask you if you ever gave me money, and you did. You lent me cash on several occasions and I did pay you back in cash.''

The next month he gives Sinclair another $6,000 and gives Cafaro $3,000 more for the three cars. These transparent fabrications did not impress the committee.

Mr. TRAFICANT protests that he is the victim of selective prosecution, indeed of government misconduct, but in order to believe his assertions you would have to accept the gentleman's notion of a vast, unparalleled conspiracy involving not only the self-interested and disreputable characters from Youngstown, but also involving the Office of the U.S. Attorney, the IRS, the FBI, a respected U.S. District Judge, the counsel for the Committee on Standards of Official Conduct, a conspiracy designed by Janet Reno and implemented by John Ashcroft.

You would have to believe that thousands of pages of testimony by prosecution witnesses, including many low-ranking employees accused of no wrongdoing who testified of being ordered to do work for the gentleman, and the hard documentary evidence against him, are all a tissue of lies, the result of evil intent, manipulation, coercion and intimidation by a treacherous cabal, for which there is simply no evidence and which is preposterous on its face.

In the end, the committee found that the evidence was overwhelming, establishing by clear and convincing evidence that the rules of the House had been violated, flagrantly, I would add.

Mr. Speaker, we are much preoccupied these days, both as elected officials and as private citizens, by breaches of public trust. We may enact legislation before we recess to protect the public from unethical conduct in the corporate arena. But to state what should be obvious, each of us in this very body has weighty responsibilities in this vein as well; not to abuse those who seek government assistance through our offices and not to abuse those who work for us.

To fail to expel the gentleman from Ohio in the face of the vast evidence spread out in the record is to say that a Member can behave as he has and retain membership in this institution. That cannot be our message today.

I urge my colleagues to take the difficult action, thankfully rare, but abundantly warranted in this case, of voting for the motion to expel.

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

Mr. TRAFICANT. Mr. Speaker, in lieu of the gravity of this matter, the number of counts, I respectfully request unanimous consent of this body that an additional 15 minutes be awarded to me.

The SPEAKER pro tempore. Does the gentleman from Colorado yield for that request?

The gentleman from Colorado has yielded for debate purposes only and must yield to permit another Member to make a unanimous consent request to change the procedure.

Mr. HEFLEY. Mr. Speaker, I will yield for that request. That is not passing judgment on the motion.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. TRAFICANT) is recognized for an additional 15 minutes.

Mr. TRAFICANT. Ladies and gentlemen, you heard on the news, the first national news story that I was involved in, a murder scheme by contract. It made national headline news. The woman was a friend of mine. She was so distraught, she called me every name in the book by phone. I didn't know what she was talking about.

She later called and recanted, after they put her in protective custody for 8 weeks, paid $800 to keep her dogs in Kentucky, and then brought her to the grand jury twice. And when she said that JIM TRAFICANT committed no crimes, then they demeaned her. But through the process they told her, to ensure her safety, to go public.

Now, if you are a juror and you have heard about a JIM TRAFICANT, if that isn't poisoning a voir dire, what is?

But then the next one that was in the national news was the $150,000 barn addition. Now, I am an old sheriff. Finally a man with a conscience, Henry Nimitz, sees me at a restaurant and comes up and says, ''JIM, I want to apologize. They were going to indict me, take away my business, ruin my life. My attorney said, why do you have to spend a half a million dollars? Tell them what they want to hear. I did, and I feel like a coward.''

But what he failed to recognize, I had a friend with me by the name of John Innella. I immediately went back to my office and did an affidavit with John Innella. Then the next day, as an old sheriff, I called Mr. Nimitz' girlfriend, who admitted that Mr. Nimitz called and admitted what he said to JIM TRAFICANT. So now the $150,000 barn was not brought.

Now, I am going to get right to the point. I want you to imagine there is a small army of patriots, and they are facing a gigantic army armed to the teeth. And the captain, trying to show strength, calls his assistant and says, ''Go to the tent and get my bright red vest.''

He goes and gets the red vest. He puts the red vest on, and he says, ''To show the power and courage of our people, without a sidearm I am going to carry this sword and I am going to attack the enemy, and, as they slay me, the blood will not be seen because of my bright red vest and you will be encouraged to fight for our homeland.'' He gave a banshee cry. He ran out into battle and was destroyed.

His assistant come up and he called his attendant. He said, ''Go to the tent and get me those dark brown pants.''

Think about it.

Tonight I have dark pants on. Am I scared to death? No. I will go to jail before I will resign and admit to something I didn't do.

Now, I want to go case by case. Forget all these witnesses. The judge's husband is a senior partner in the law firm that represented one of the key witnesses in my case, and that is part of now legal action relative to 28 U.S.C. 455. In addition, that person, Cafaro, I am not going to mention names, admitted giving hundreds of thousands of dollars to politicians, I might add, mostly Democrats.

He said he gave me a $13,000 bribe. Because we were at a public meeting, he said he waited until everybody left, and then we walked out together, we got in his car, and he gave me the money.

One of the attorneys handling my appeal is a bright young black attorney by the name of Attorney Percy Squire, Chief Clerk to the Chief Judge of the Northern District of Ohio, and I called him as a character witness. And he said, ''JIM, what do you want me as a character witness for? I came late to that event where you were trying to put a quarter percent sales tax together, so you could leverage funds, and I walked you out and saw you get in the green truck,'' that another witness said he picked me up in a green truck, because his had a cap on, and we had built prefab siding for a hunting hut. We went and got my truck and went and put the hut up.

And they accepted Cafaro's testimony even though he admitted to lying in a previous RICO trial. That is one count.

Richard Detore is a patriot. I didn't subpoena Detore because his attorney said, ''Don't subpoena Richard, subpoena me.'' To tell you the truth, I was a gentleman, and I did it. I felt sorry for him.

Before I was indicted, before Detore was indicted, I have a tape where he says everything on that tape that he told the Committee on Standards of Official Conduct. He said, ''JIM, I think I am living in Red China. If I didn't have two kids, I would blow my brains out.''

Now, let's look at a few affidavits. Dealing with David Sugar, just yesterday caught up with him. They said it was a half mile, Jack, across the State line, and they might now pull me into jail for being out of my district.

With one of my staffers close by to listen, Sugar admitted that he told Harry Manganaro that after the second FBI visit, because he had backdated some invoices, if he did not lie against JIM TRAFICANT he would not only be indicted, his daughter, his wife and his son would be indicted. I have a tape of Harry Manganaro. He wasn't allowed to testify, nor was the tape admitted at trial.

Now, in addition to that, a man by the name of Joe Sable told another one of my constituents three days ago, ''I feel so bad for JIM.'' David Sugar told me the same thing. And David Sugar said to me, ''JIM, I would love to help you.'' Now he is saying in the paper, ''I never said that to TRAFICANT.''

By the way, Nimitz' attorney, who I taped his girlfriend, his attorney said he admits to meeting TRAFICANT, but did nothing illegal.

Now, let's talk about Tony Bucci. His fourth plea agreement, his brother in Cuba, fled the country on a fugitive warrant, they sentenced him to 6 weeks arrest, and here is what he said. He did $12,000 worth of work at the Traficant farm, and he owned me. Now, not all of you know me personally, but if you think someone owned me, you would throw me the hell out of here.

Witnesses testified that I asked him for jackhammers because we had an old bank barn. I never owned the farm. But this old bank barn didn't have enough height for horses, Ralph. I asked him to let me use their jackhammers. He said, ''It is an insurance problem. I will send some people out.'' I said, ''I don't want you to do that. You will get too close to that old bank barn and you will drop it in.''

And that is what happened, folks. And the whole corner of that barn, Cynthia, fell down. Harry Manganaro came out and helped me prop it up. It cost my dad $15,000.

Now, guess what? Harry Manganaro came to my office yesterday and said his building happened to be firebombed last weekend and all his records are missing, including the bill, $15,000, not counting materials, to my dad who owned it.

Sinclair. Now, look. You are prosecutors. Mr. CALLAHAN made a hell of a

point. Mr. LATOURETTE, thank you. But now I want a prosecutor to think, you really want JIM TRAFICANT. They didn't allow a witness to testify, they wouldn't allow a vendetta defense. She voir dired nine of my witnesses outside the presence of the jury, didn't allow them to testify. Allowed none of my tapes. All of my tapes are exculpatory. Even on those who took the 5th Amendment, she didn't allow them.

Bucci lied through his teeth. His sister-in-law told me that there were three brothers and a brother that lived across the street from the farm and he was my friend. And she said he was sick, they took him to Florida, where he had his leg amputated; brought him back, stole the money from the family, and her children did not even attend the funeral. She submitted an affidavit and testified.

God almighty here.

Now, they said the prosecutor said, ''TRAFICANT is touchy-feely. TRAFICANT is too intelligent to be taped.'' Why did they have Sinclair tape an attorney, Madovich? Why didn't they fake body injury? I have a device, Mr. HEFLEY, that I could tape you right now, your conversation in the midst of all of this, and you wouldn't know you are being taped.

Now not one wiretap, with the number one target in the United States of the Department of Justice prosecutors. My phone wasn't tapped. They didn't want to get an admission. They didn't want to get TRAFICANT saying listen, go to it, that grand jury, do this.

J.C., everybody that testified against me would have gone to jail and lost their law license and ruined their life.

Now, a brother-in-law testifies. He said his brother-in-law told him that he was taped by someone that he had bribed a county engineer, hundreds of millions of dollars. He told his brother-in-law that he would go to jail for 10 years and lose $15 million, but all they wanted was TRAFICANT. So he told his brother he added up all the campaign contributions, which was $2,300 or $2,400 and said he bribed TRAFICANT.

You know what is amazing about this one? She didn't even allow the brother-in-law, who was subject to jeopardy, being sentenced in another case, to testify.

And guess what I did? I used the government's own picture because he said I did this, Ellen, in a barn. So I held up the picture and said, ''What barn was it?'' Couldn't identify the barn.

I said, ''What was I doing in a barn?''

He said, ''You were cleaning a horse's hoof.''

''Which one?''

He said, ''The back one.''

I said, ''Was he tied, or was he being held?''

He said, ''Someone was holding him.''

''Anybody else in the barn?''

''Oh, all kinds of people.''

''What was the floor like?''

''Can't remember. Too much manure.''

The jury even threw that one out.

I have an affidavit or a tape on every one of these counts.

Now, Sandy Ferrante testified that she personally saw me repay over a period of years money to staffers that I borrowed from them. When the IRS nailed me, they took me to civil court, and I made $2,400 a month. And that just run out, and now they are going to put me in jail for 12 years, take everything that my wife and I owned, and I never owned that farm.

I will go to jail, but I will be damned if I will be pressured by a government that pressured these witnesses to death to get a conviction on a target, the number one target in the country.

Jim Kirsham, who was an FBI-paid special agent, she would not let him testify, said, ''If you get us anything on TRAFICANT, we will build a monument to you.''

I got an affidavit from a guy just sent to me from Canada that I helped in a case where 11 Chinese were arrested, and he said, ''I want to thank JIM TRAFICANT publicly,'' and they said, ''Stay away from TRAFICANT. Don't mention his name. We are going to get him.''

I had an FBI agent that compromised one of my constituents under mental instability, desperately trying to save custody of her child, compromised her into sex. She said, ''Jim, he didn't throw me to the ground. I don't want my 87-year-old mother to know about it.''

FBI agent Anthony Speranza. I will be damned if someone is going to rape one of my constituents.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.

The SPEAKER pro tempore. The gentleman will suspend.

The gentleman will avoid profanity or indecent language.

Mr. TRAFICANT. How much time do I have left?

The SPEAKER pro tempore. The gentleman has 30½ minutes remaining.

Mr. TRAFICANT. I read an affidavit of a Scott Grodi. He sat through the whole trial. I would like your attention. I got this affidavit today, about an hour before I came here. He was released two days before the trial, his aunt died. He said he wanted to finish. I thought we had it resolved for the U.S. Marshals to take him so he would be a pallbearer. When he came back, he was dismissed.

He didn't put in his affidavit, Cynthia, but you can write and talk to him, John Grodi, Scott Grodi. He said he knew the prosecutor wanted him out. He said, ''I knew JIM TRAFICANT was innocent.'' He said, ''I could see how he impeached their witnesses and how they were lying.''

Now, Mr. BERMAN said that there was a recant by Mr. Glaser. This is today's newspaper just faxed to me. Mr. Glaser said he did not recant, and, on the evidence, he couldn't see himself convicting JIM TRAFICANT now.

Mr. Grodi said the woman next to him also felt I was innocent. I tried to get an affidavit from her. Her attorney informed us that she was afraid to get involved. Now, folks, if she had something good to say about the government, would she be afraid?

Look here, that Cafaro Company and that Laser, I saved them with a $4 million appropriation. Thank you, Bill Young. But most air flights miss on their airports, and that technology is already used on our submarines and our naval aircraft carriers. And the only deal I have with Cafaro is bring those jobs, Ellen, and bring those headquarters from Manassas, and screw Frank Wolf.

I have helped everybody in my district and every one of these people, yeah. I did not even like some of them. But when they had 150 employees and got a contract for a highway that hired another 200, I had a 22 percent unemployment rate. Did I go to bat for them? Yes. Did I write letters to the Secretary of State? Yes. Did I write letters to the Secretary of Commerce? Yes. Secretary of Labor? Yes. Department of Transportation? Yes.

But here is where I am at tonight. I have been pressured for 20 years. Now, in 1996, read this. ''Dear Sheriff, after watching your deal in Washington and listening to the courageous admission of Mr. Detore concerning Morford pressuring him, I decided to come forward. Mr. Morford pressured me to lie about you in front of a grand jury in 1996. I would not lie. I am proud now that I did not lie after hearing Mr. Detore. Enclosed is my truthful affidavit. You can see it any way you wish.''

Here is what they wanted Mr. Detore to say, he was outside the door and heard me and Cafaro make a bribery deal. What Mr. BERMAN didn't mention is I paid $10,000 for cars that didn't run, and Mr. Cafaro sold these cars made in Youngstown, the whole company, for $1. They are considered worthless. He owed me money, never gave me the titles. Flying Members of Congress around, getting Senators' girlfriends' gifts.

But you get out of jail free by getting the man right here.

Here is the problem in America, and you must take America back. And I am running as an independent, and don't be surprised if I don't win behind bars.

The American people are afraid of their government. Why are we afraid of our government? Now, I want you to listen to this. Bob, they didn't bring one FBI or IRS investigator who investigated me to the stand so I could cross-examine them. They brought a 30-year veteran from Philadelphia, Mr. CALLAHAN, he had seven trips, spent 40 days, a quarter of a million dollars, and all he did was add up the numbers the prosecutor gave him. And said he did no investigation. When he left, he was so confused he walked into the edge of the jury edge, right in the sore spot.

The other one was an FBI rookie. Now, listen carefully. When it come to fingerprints, the judge smiled like a fox. She dismissed the jury. The prosecutor says, ''Your Honor, we have no

fingerprints of the defendant.'' One thousand documents. And listen to this. He said the one time I gave him an envelope of four, five, whatever thousand, and he took it immediately to the FBI guy who sent it to the lab.

Now, I am an old sheriff. I want to get TRAFICANT? I steam that thing open, I fix a few bills, say, ''Look, you tell TRAFICANT you don't want to go any further. You are not going to hurt him. When you come out of that restaurant, just have that damn money on him.''

What I am trying to tell you, there is no physical evidence. And when they talk about this Sinclair, $2,500, they fail to mention that he had five accounts. And every time he took 2,500 out of one, 2,500 went into another one. And after he left my employment for 22 months, $2,500 didn't go into the other account. And while he was in my employ, he said he earned $50,000 from me and $50,000 from the government.

□ 2100

He bought a $300,000 house, a brand new Buick van, rented a new car for $300 month and spent $60,000 on advertising. They went back 15 years on a horse transaction I had in Uhrichsville, Ohio, George Hooker. They could not find one citizen to say JIM TRAFICANT bought a pencil for cash. Now look, if you drink five gallons of Gatorade, you are going to expend five gallons of Gatorade somewhere in one of these restrooms. You know what you have before you? We are getting to the point where a RICO case is going to be brought against a group of housewives for conspiring to buy Kellogg's cereal.

I am prepared to lose everything. I am prepared to go to jail. You go ahead and expel me, but I am going to tell you what, Mr. LATOURETTE was right about Salvati, but do you know what was mentioned of Mr. Detore? Do you know what JIM TRAFICANT said about Janet Reno? The administration wants him out. Now, I said this on radio and I am on the House floor. I am going to say it to you right now. I called Janet Reno a traitor and I believe in my heart she is.

I believe Monica and Henry Cisneros were not that important, but I think that Red Army Chinese general giving money to the Democrat National Committee was an affront to our intelligence, and now I am going to tell it like it is. The Republicans want a permanent trade status with China. You let it slide. Democrats did not want Clinton and the party hurt. You let it slide. And what you let slide was the freedom of the United States of America. And I called her a traitor.

And Janet Reno, if I do not go to jail, I will be in Orlando August 15 and you are not going to be elected to any damn thing. Nobody should fear our Government.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HANSEN). The Chair would caution the gentleman to please avoid the use of profanity or indecent language, and the gentleman should address the Chair and not other Members by their first names. The gentleman may proceed.

Mr. TRAFICANT. I apologize. As a fashion leader, it is tough for me at times to comport with some rules.

It was brought up and said, JIM, why don't you go to Speaker HASTERT? HASTERT owes you. I didn't go to the Speaker. I didn't vote for the Speaker to get something from the Speaker. Now, you go ahead and expel me, but you ran this place for 50 years, Democrats, and you made the IRS and the FBI and the Justice Department so strong, our people are afraid to death of them.

I want to thank Bill Archer and the Republican Party, and that is why I voted for you, Speaker. For 12 years I tried to change the burden of proof in the civil tax case and protect the American people's homes from being seized, and now, I want to give those statistics because they are relevant to my case and the IRS hates me for it.

The law was passed in 1998, the Traficant language wasn't in, Clinton threatened to veto it. Ninety-five percent of the American public wanted the Traficant bill. The Republican Chairman, Bill Archer, called me and said he talked to the Speaker and leaders and said, JIM, we are going to put your burden of proof in and we are going to put your language on seizure in the conference, and wrote me a letter giving me the credit.

Now, let me give you the statistics that I am proud of and I want to share, because this may be the last time on the floor, and I expect it. The year before compared to the year after the law, wage attachments dropped from $3.1 million to $540,000. Thank you, Mr. Archer. Thank you, ROB PORTMAN. Property liens dropped from $688,000 to $161,000, but now let us think of our communities. Seizures of individual family-owned homes dropped from 10,067 to 57 in 50 States when they had to prove it, and you guys did it. Congratulations.

I want to fight these people. I want to fight them like a junkyard dog. They tied my hands behind my back and that first vote was 7–5. I am not going to get into some of the personal dynamics, but there were some people that Mr. Grodi told me that were predisposed to vote against me before that case started, and that upset him. By the way, one of the jurors said, it is unfortunate he got caught, but most of those Members of Congress are crooks anyway. I don't think you are crooks. I never ripped off Mr. SKELTON.

I have a lot of Hispanics mad at me, and I think Ms. SANCHEZ is a great member, but yes, I voted for Mr. Dornan because I thought we set an illegal precedent by allowing possible illegal immigrants to vote in a Federal election, and I voted with Mr. Dornan. And I am sorry, but that's the way it is. Now, since then I think you have an been an excellent Member. If you have been offended by this, I am sorry.

I also want to say this. I urge you to put our troops on our border. I think anybody who jumps the fence shouldn't be made a citizen, they should be thrown out. And you are going to be dealing with homeland security, and I am saddened in my heart I can't vote on it.

Now, I don't know how much time I have left, but show me one piece of physical evidence.

Mr. Detore, by the way, spent $600,000 and is now without an attorney. His last attorney he paid $239,000 who went to the judge without him knowing and asked to be withdrawn from the case, because Richard Detore would not give him $100,000. He had already given him $239,000, and all he did was submit 3 motions for him. And one thing rang true: Every one of the witnesses that testified; significant, they had some witnesses scared to death. The key witnesses all would have gone to jail, lost their license, wives should have been indicted, and you know what? Back to my valley. I don't blame any one of you.

I think if they had something on Mr. Detore, who knows what to God he would do, but I am going to say this. Someone who impugns the character of Mr. Detore is, in my opinion, violating the sanctity of this House. Because he said, I checkered my wife and I will not lie. And if they indict me, go ahead and indict me.

They talked about a Corvette that cost $1,000. It was supposed to be $1,000, but ended up being $6,000 that I paid for it. They said, why did you pay so much for the Corvette? I rented a Corvette because I wanted to get a car to drive to visit Mr. COOKSEY to go hunting and to speak at one of his events. But he got tied up 3 weeks later, and I had the car for 3 weeks, and when I drove back, the license plate expired in 30 days, got picked up on 395.

I ended up paying $6,000 for a car. I paid for it and got the records. Everything I paid was by check or a credit card. No cash in 20 years. My God, if you don't give me a right to appeal a judge whose husband was taking his law firm fees from the Cafaro company, who is the predicate act of the RICO, then who is our last bastion of appeal if it is not the people's House?

Mr. Speaker, I voted for you; I thought you were better for the country, period. I thought the Republicans' program was better. Mr. GEPHARDT, if you're here, I apologize for my comments; it was in the heat of battle. If you had been there, I probably would have hit you too. But I apologize for those words.

With that, with that, I retain the balance of my time, or however you word it. How much time do I have?

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Ohio (Mr. TRAFICANT) has 14½ minutes remaining.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Do I go last, Mr. Chairman? Parliamentary inquiry.

The SPEAKER pro tempore. Would the gentleman state his inquiry?

Mr. TRAFICANT. Mr. Speaker, do I go last, since I am the subject of the demise?

The SPEAKER pro tempore. The gentleman from Colorado (Mr. HEFLEY) has the right to close.

Mr. TRAFICANT. Mr. Speaker, I ask the gentleman from Colorado (Mr. HEFLEY) as a gentleman to relinquish his right to close, surrender to me and give me his time.

Mr. HEFLEY. Mr. Speaker, I will hold that decision in abeyance until we get down to that time. I will take it into consideration.

Mr. TRAFICANT. Mr. Speaker, if the gentleman has any time left.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. HASTINGS), who is the chairman of the Investigative Subcommittee in this matter.

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is a day that each of us hoped would never come, and we pray that it will not come again. Simply put, there is absolutely no satisfaction in judging one of our own. But the Constitution makes clear that we are the only ones who can judge a fellow Member of Congress in cases such as Mr. TRAFICANT.

It is certainly difficult for me, as I am sure it is difficult for my fellow members of the Committee on Standards of Official Conduct, to recommend the expulsion of a colleague. Our recommendation in this matter is based solely on the facts as we know and understand them. This recommendation is one that I know the entire committee took very seriously.

My only responsibilities in this matter were twofold. First, I served as chairman of the Investigative Subcommittee. Along with 3 of my colleagues, our responsibility was to examine the evidence from Mr. TRAFICANT's trial in Cleveland, Ohio, and to determine whether there was ''substantial reason to believe'' that violations of the House rules occurred. At this point, Mr. Speaker, I would like to thank each of my colleagues on the subcommittee for their service and their support during this long and painstaking investigation.

My cochair, the gentlewoman from California (Ms. LOFGREN), the gentleman from Mississippi (Mr. WICKER), and the gentleman from Georgia (Mr. LEWIS) should all be commended for the fair and even-handed way that they carried out this difficult assignment that none of them sought.

Mr. Speaker, on the Investigative Subcommittee, our role was similar to that of a grand jury in that our threshold of substantial reason to believe is lower than the clear and convincing evidence threshold used by Chairman HEFLEY's Adjudicatory Subcommittee.

We were charged to review the evidence presented at trial and then make our determination regarding any possibility of violation of the Rules of the House. I should emphasize that we were not simply to accept the verdict of Mr. TRAFICANT's trial at face value, nor were we to base our recommendations on that verdict.

By a unanimous, bipartisan decision, the vote on the subcommittee concluded that in fact, it had ''substantial reason to believe'' that the Rules of the House were violated, and this the next phase, the adjudicatory phase, should move forward.

Now, my second responsibility was not as the whole committee had or the adjudicatory committee; my second responsibility was to determine the appropriate sanction in the event that the adjudicatory phase was so warranted. This part, I must say, was very, very difficult, difficult because measuring Mr. TRAFICANT's transgressions against past transgressions by other Members, then determining the appropriate sanction is, by far, far from a black and white exercise. But, the Constitution assigns us this responsibility, and to us alone, and so we proceed.

After considering all of the evidence, I concluded that Mr. TRAFICANT's offenses were so serious and so purposeful that expulsion from the House is the only appropriate sanction.

□ 2115

So with a heavy heart that is how I will vote at the conclusion of this debate, but not only for the sake of this great institution, but out of respect for the rule of law.

Mr. Speaker, if any greater good is to come from these proceedings, let us hope that by facing our responsibilities squarely we have begun to rebuild public confidence in the integrity of the people's House. Whether we like it or not, in recent years too many Americans have come to believe that holding high office means a person gets to play by different rules than everyone else. That perception has helped fuel growing public cynicism about the honesty and integrity of Congress itself. Nothing could be more dangerous to our democracy, and we simply cannot allow that perception to grow unchecked.

Here in the House of Representatives, we all know there are rules governing Members and the conduct of their official duties, and we also know that those rules must be enforced fairly, without fear or favor.

Mr. Speaker, this is a day each of us hoped would never come. Mr. Speaker, this is a very difficult time for all of us, and I know it is difficult for all of my colleagues sitting here tonight, but I think that we must vote aye on this resolution.

Sadly, when the Rules of the House are violated so willfully and flagrantly, we have little choice but to punish those who break them. For, by their actions, Members who violate the rules undermine not only our own internal order here in this great institution, but the very foundation of public trust and confidence on which the people's House must always rest.

Today, it's up to us to repair that foundation.

Mr. BERMAN. Mr. Speaker, I yield 2¼ minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I was the ranking member on the investigative subcommittee serving with the gentleman from Washington (Mr. HASTINGS), examining the testimony and evidence presented during the trial.

The subcommittee unanimously concluded that the evidence showed that the gentleman from Ohio (Mr. TRAFICANT) engaged in official misconduct of the most serious nature. He traded his official office and powers repeatedly for money, free labor, equipment at his farm and other things. He did so repeatedly and with several different people and companies.

He demanded and received tens of thousands of dollars, with salary kickbacks from his congressional employees. He filed two false income tax returns that failed to report more than $75,000 in income from gratuities. As I mentioned earlier, the trial lasted more than 30 days with over 6,000 pages of transcript, more than 50 witnesses called for the prosecution and 29 by the gentleman from Ohio (Mr. TRAFICANT).

We took this testimony and reviewed it, but we made an independent review of the sworn testimony and other evidence during the trial, and we unanimously decided that the gentleman from Ohio (Mr. TRAFICANT) should be charged with violation of House rules based on the evidence, not criminal charges.

There was testimony, evidence by the businessman who gave the gentleman from Ohio (Mr. TRAFICANT) gratuities, and that was supported by testimony of public servants who were pressured by the gentleman from Ohio (Mr. TRAFICANT). Eight witnesses testified relative to the kickbacks the gentleman from Ohio (Mr. TRAFICANT) received, and that testimony was also substantiated. Five employees of the gentleman from Ohio (Mr. TRAFICANT) testified as to the work they were directed by the gentleman from Ohio (Mr. TRAFICANT) to perform on his farm or boat. One employee testified that he had been there between 100 and 300 different times.

The gentleman from Ohio (Mr. TRAFICANT) repeatedly asserts there is no physical evidence of his crimes, but, in fact, there is abundant evidence, including check, bank records, memos, faxes, letters and other documents.

I would finally just say that when the gentleman from Washington (Mr. HASTINGS) and I rejoined the remainder of the committee for the penalty phase, we joined eight others with the unanimous recommendation, with great sadness, that the expulsion remedy is one that we must do. I feel very sad this evening to listen to this testimony, but I know what our duty calls us to do, and I hope that the House is up to it.

Mr. TRAFICANT. Mr. Speaker, how much time remains with all parties?

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Ohio (Mr. TRAFICANT) has 14½ minutes remaining. The gentleman from Colorado (Mr. HEFLEY) has 6 minutes remaining. The gentleman from California (Mr. BERMAN) has 7¼ minutes remaining.

We would close in this order unless someone elects different: The gentleman from California (Mr. BERMAN), the gentleman from Ohio (Mr. TRAFICANT), the gentleman from Colorado (Mr. HEFLEY), in that order.

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

Number one, the businessman my colleague is talking about that corroborated Mr. Cafaro's testimony was Al Lang, and I did not find out until after the trial that there was a demand note from Mr. Cafaro to Al Lang to repay the money for the boat he was to buy.

Number two, that also Mr. Cafaro paid for Mr. Lang's attorney. So it was really Mr. Lang and attorney or Mr. Lang was represented by Mr. Cafaro's attorney? My God.

Second of all, the Committee on Standards of Official Conduct allowed me to subpoena one witness. I asked for 11 subpoenaed and 20 that did not need subpoenas. They finally come back and retracted. The one witness testified she personally made the loans when I could not make it to the farm. One fellow saw me make loans to the other fellow.

My colleagues had a hearsay transcript. Now I want to ask the committee, and I wish the committee would hear me. I want to know what witness the committee called to refute my witnesses or the hearsay in that transcript. Why was I willing to bring 31? Why did the judge tie my hands behind my back?

The point I am making to my colleagues is I am not unique. I know why I was targeted. I do not need American history to beat them, and I was an embarrassment, and then I brought home John Demjanjuk, the infamous Ivan the Terrible. I was labeled an anti-Semite. No one would look into his case. The headlines in my paper said Nazi sympathizer. What they did not say when the family came in, they came to me last because no one would listen to him because they said ''the case was too sensitive.''

I said come on in and what they also did not print, I said, if your dad has been convicted and I will go over and pull the switch, but whether he was Ukrainian or Jew made no difference to me. I literally, through my investigation, discovered the evidence that proved that Ivan the Terrible was 9 years older, taller, black hair, long scar on neck and his name was Ivan Marchenko and then presented a picture to Israeli Supreme Court, and for all of the people calling me anti-Semite, let me tell my colleagues something. I never voted for a foreign aid bill until we had a surplus, and then I voted for aid, and I support Israel, a democratic State, surrounded by a cluster of monarchs and dictators who have held us hostage for oil, but he was not Ivan, and the Israeli Supreme Court taught me something that I think Congress should know. They literally delivered him to me on an El Al flight to take home. Congress would not even hold a hearing in light of my compelling evidence that the Israeli Supreme Court freed him, because it was too sensitive.

What has happened to us, Congress? Am I different? Yeah. Have I changed my pants? No. Deep down my colleagues know they want to wear wider bottoms; they are just not secure enough to do it. I do wear skinny ties. Yeah, wide ties make me look heavier than I am and I am heavy enough. Do I do my hair with a weed whacker? I admit.

Take into consideration what my colleagues are doing. The Democrats, and I agree with the gentleman from Wisconsin (Mr. OBEY), and I have had my run-ins with him, probably no one brighter in this whole place.

Mike Myers, an FBI undercover agent posing as an Arab sheik gave him $250,000, captured by videotape, and my colleagues let him go till after the break. The two Members who violated a 17-year-old page boy and a 17-year-old page girl, which is rape in every State, were not expelled.

If my colleagues know law enforcement and they have got a target, they want a confession, and when they cannot get that confession, they want an admission, and I am telling my colleagues this right now. They have more tapes on me than NBC. I did nothing wrong. That is why go ahead and expel me, and I believe this judge is so afraid of what is resonating throughout America, who believes that they should not have to fear their government and that Congress is the last hope to take it back, and I am saying to the Speaker, take it back.

No American should fear their government and this guy does not. I am ready to go. Expel me. It will make it easier for them to really jack me good.

But do my colleagues know what they will have done? They will have taken the standards of a RICO case down to less than a DUI where a person needs a .10 to get a conviction.

Let me tell my colleagues what happened to me early Saturday morning. I was up in Portage County, a new part of the district of the gentleman from Ohio (Mr. STRICKLAND), and I did not run against the gentleman because I thought I would beat him easily, and I wanted to give him a break.

I left my car, and at 2:30 in the morning I pulled out, and I got pulled over by a township police car and a county sheriff. The window does not work on the car, so I opened up the door. They could not see me but said, ''Mr. TRAFICANT, can we see your registration and license.'' It had dealer tags on it. I did. He asked me to get out of the car.

They asked me to walk around the back of the car. They asked me to do my ABCs. They asked me to do this with all four fingers on both hands, and they asked me to stand and put my foot in front of my right, take nine steps, stop, turn and return. Then they asked me to lift my right knee, with my left foot on the ground and count to 30. Try that. Then they said reverse, put your right foot on the ground, pick your left knee up, count to 30, and I did that, and they said would you mind a breathalyzer. I said knock yourself out. I was .001.

Here is what I asked them: Did the FBI tell you that was my car and ask you to see if you can get a DUI on me? They looked at each other real funny, and I cannot tell my colleagues exactly what I told them because of House decorum, but I told them if I find out it is an FBI agent that did it, I will tear his throat out, and if they lied to me, I would come back to them and tear their throats out.

They are not going to frighten me. I am ready to go to jail. I will go the jail before I admit to a crime I did not commit, and there was never any intent to commit a crime, and when they start bringing letters that my colleagues send to Cabinet members trying to help their people, there is a dangerous precedent set in U.S. v. Traficant.

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

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT), a member of the committee.

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

Mrs. BIGGERT. Mr. Speaker, it is with sadness and regret that I rise today to express my support for H. Res. 495 in the matter of JAMES A. TRAFICANT, JR. Let me make this very clear. No Member of Congress ever wishes to sit in judgment of a colleague, least of all a colleague as colorful and as indomitable as the gentleman from Ohio (Mr. TRAFICANT).

Yet at the same time no Member ever wishes to see the rules of this institution broken or the standards of its Members brought low. Many Americans who have read or heard of the gentleman from Ohio's (Mr. TRAFICANT) conviction in Federal court wonder why we in the House have bothered with our own investigation and hearings.

□ 2130

They ask, ''Why go through all of that? A jury found him guilty on 10 felony counts.'' They find it hard to find to understand why expulsion from the House would not be automatic once a jury finds a Member guilty of felony offenses in a court of law. The answer, quite simply, is found in the Constitution. Our Founding Fathers left it not to the Judiciary nor to the executive branch to determine when, how, or if expulsion of a Member is warranted.

They left it to us, the Members of this body.

It falls to us today to look at three things: One, the statement of violations of our own code of official conduct, drawn by our own investigative subcommittee; two, the evidence presented at our own adjudicatory hearing by our own subcommittee counsel and the gentleman from Ohio (Mr. TRAFICANT); and, three, the findings and sanctions recommended by our own full Committee on Standards of Official Conduct.

If my colleagues will look at these three things, they will conclude that there is clear and convincing evidence that the violations occurred and that the resolution should be approved by this body today.

Mr. Speaker, I would like to thank our chairman, the gentleman from Colorado (Mr. HEFLEY), and our ranking member, the gentleman from California (Mr. BERMAN) for their outstanding work on this resolution. Throughout the long weeks and days leading up to and including the hearings, they showed the greatest integrity, patience, and fairness, often going out of their way to give the gentleman from Ohio (Mr. TRAFICANT) every opportunity to counter the clear and convincing evidence presented against him.

I salute my colleague, the gentleman from Ohio (Mr. LATOURETTE), for his outstanding work.

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

Mrs. JONES of Ohio. Mr. Speaker, I rise today in support of the motion to expel our colleague, the gentleman from Ohio (Mr. TRAFICANT). I know, too, that many of my colleagues are questioning the propriety of expelling the gentleman from Ohio, something that has not happened in this House in some 40 years. And Members are questioning it notwithstanding the fact that a jury was convinced beyond a reasonable doubt of his guilt, the highest burden of proof required in our legal system, and notwithstanding the fact that the Committee on Standards of Official Conduct, who was vested and duty bound by this body to review the conduct of our colleagues, has reviewed the facts and determined that his conduct was of such nature that it violated the House rules of conduct, and that it was of such character and so serious that it merited the highest sanction from the House of Representatives.

Let me assure my colleagues that when we try cases in criminal justice courtrooms, we often talk about a subject called a red herring. Now, today, we have had an opportunity to hear from our colleague, the gentleman from Ohio. In fact, the wonderful thing about our justice system and the hearings that we have had here in the House are that they were public. We had an opportunity to hear the presentation or the defense presented by the defendant.

I will not go through all the red herrings, but we talked about: ''I paid for the car, I never owned the farm; everybody would have gone to jail or lost his license; I repaid the money to my staffers; do not be surprised if I win, I will win behind bars; 1,000 items; no fingerprints; hearsay transcripts; when the play is cast in hell, none of the witnesses in the trial will be angels; you cannot believe that the credibility of some of these witnesses could be better if they were someone else.

Forget the witnesses for a moment. Forget that the judge's husband was a member of the firm, and forget that his clerk was the chief clerk for a chief justice of the Supreme Court or other trial court. We have a duty. We have an obligation. The public is watching us, and they are saying, ''House of Representatives, you have a duty. You have an obligation as elected Members of Congress to take into consideration what has been presented to you by this Committee on Standards of Official Conduct.''

It is not easy. When I was a judge, I was required to sentence somebody to death. And people used to say, oh, he should get the death penalty. But it was not that easy to stand up there and say I sentence him to death. And it is not easy today, my colleagues, but it is our job. It is our duty. Uphold the integrity of this House of Representatives and vote to expel the gentleman from Ohio (Mr. TRAFICANT).

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

Number one, to the gentlewoman from Illinois (Mrs. BIGGERT), I say that I am sadder than you are.

To my colleague from Ohio, after the public hearings, 80 to 90 percent of the viewing public supports my position. Number three, all the witnesses that testified against me at trial were either felons or would-be felons, with no physical evidence.

The gentlewoman is a very astute legal criminal mind. I just want her to think before she votes.

In the case of staff, they said one afternoon I invited them down to the boat, they did some sanding, it was a bonding thing, and they drank beer. The ones that came to the farm, came for the weekend, voluntarily; wanted to use it as a health spa.

One guy that said he was there 300 times, I had it before the trial, but I heard he took $2,500 to bribe a judge in a DUI case. I thought they had no evidence, and I did not even question him on it. I have a tape from one of his fellow trustees that I will submit to the committee. His name is Jim Price, Weathersville Township, relative to the testimony of that staffer that I will not mention.

Look, show me the beef. Come up with a transcript. They could not even bring an FBI or IRS investigator to the stand, they are so afraid of me. And I am going to tell my colleagues something, and they are not going to believe it. My hands tied behind my back, I believe in my heart I won that trial, and that trial was manipulated. I would not rush in haste.

Now, if my colleagues do not expel me tonight, I am convinced this judge is going to put me in jail. She cannot stand my guts. And she is deathly afraid of me getting on national TV, because it is beginning to resonate around the country about how people do fear our government. And why do we?

I expect my colleagues to expel me. It is going to hurt me when some of you do.

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

The SPEAKER pro tempore (Mr. HANSEN). Does the gentleman from Colorado have any other speakers?

Mr. HEFLEY. Just this gentleman, and then myself to close.

The SPEAKER pro tempore. Does the gentleman from California have additional speakers?

Mr. BERMAN. One additional member of the committee and myself.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. HEFLEY) may proceed.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes and 45 seconds to the gentleman from Missouri (Mr. HULSHOF), who is a member of the committee.

Mr. HULSHOF. My colleagues, let me first thank you all for your attention and presence here. The gentleman from Minnesota (Mr. OBEY) pointed out to me during the vote that back in 1980, as this matter was being discussed, only a handful of Members were here for that debate over the expulsion of Mr. Myers. And so your continued presence here is a testament to this institution.

The gentleman from Ohio has referenced the lack of evidence and the quality of evidence. Is there anybody in this Chamber who believes that the gentleman from Ohio (Mr. TRAFICANT) could be captured incriminating himself on tape? Should we, in this case or any other case, reward a wrongdoer because he has the wherewithal to avoid being captured in the act? Shall a clever criminal who has enriched himself at taxpayer expense be further enriched because he almost avoided detection?

I paraphrased comments made by a member of the Committee on Standards of Official Conduct back in 1980 in that matter. The gentleman from Ohio (Mr. TRAFICANT) has violated the House rules not only as an individual who happened to be a public servant, but as a public servant who traded upon that very elected office.

There is no one who disputes that the gentleman has fought aggressively for his constituents in the 17th Congressional District of Ohio. I daresay that 435 Members who come here every week do the same for constituents back home across this land, and yet we come here in the public good, not to enrich ourselves for private profit.

To my colleagues who were sworn in in this Chamber on January 7, 1997, in the 105th Congress, what an interesting tenure we have had. Our first vote for Speaker of the House, who had an ethics cloud hanging over his head; our last vote as freshmen members on the impeachment matter of a sitting president; and here we are again tonight with the lens of history trained upon us.

There are some who have been fretting about this vote and that we are debating it in prime time, of all things. Well, my colleagues, I believe that tonight is going to be one of this institution's finest hours.

To the gentleman from California (Mr. ISSA), I absolutely agree with his statements on the previous motion. It should take extraordinary wrongdoing to override the wishes of a voter in a Congressional district. I believe that. And I believe this is one such case.

Sometimes when we walk in darkness, we are overcome with the brilliant light of truth. A little over 300 days ago, we assembled as a body on the darkest day of our Nation's history, and we sent a glimmer of light to the people we represent that you can extinguish thousands of American lives, but you will not extinguish the American spirit. And yet when you destroy that fragile bond of trust between the elected and the electorate, expulsion is the only appropriate remedy, regrettably, and I ask for that vote.

Mr. HEFLEY. Mr. Speaker, I do have some additional comments I will give at the appropriate time, but I would like the gentleman from Ohio (Mr. TRAFICANT) to know at this time that I am going to waive my right to close in this serious matter and give him the right to close.

The SPEAKER pro tempore. The gentleman is allowing the gentleman from Ohio (Mr. TRAFICANT) the right to close?

Mr. HEFLEY. Yes, Mr. Speaker. So that when the gentleman from California (Mr. BERMAN) is through, I will make a few comments.

Mr. TRAFICANT. Mr. Speaker, would the gentleman from Colorado yield me the balance of the time he does not use?

Mr. HEFLEY. I will be happy to yield the balance, if I do have some left, but I do not believe I will.

Mr. BERMAN. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from California has 4¾ minutes remaining.

Mr. BERMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I have never spoken to my colleagues from this mike, that I can remember.

Mr. Speaker, we do not enjoy what we are doing today, but I am proud to follow my colleague, the gentleman from Missouri (Mr. HULSHOF). When we have to discipline ourselves, it is a task we try to avoid. We avoid it to give due process to the accused, but in all reality, we really do not want to air our dirty linen in public. We really do not. Nobody does. Because we are a family, and families do not do that.

With that said, I could not be more proud in my four of five terms here. I did not want the Committee on Standards of Official Conduct, but I am proud to serve on it with the gentleman from Colorado (Mr. HEFLEY) as the Chair and the gentleman from California (Mr. BERMAN) as our ranking member. This is not something that any of us wanted. In fact, we would resign tomorrow, except it is our duty.

This is the people's House and we have to do our job. If we cannot remove a Member of Congress who has been convicted of 10 felonies, including using his office for personal gain, we risk losing the faith and trust of the American people that we have.

As a duly elected Member from the 17th district of Ohio, I do not fault the gentleman from Ohio (Mr. TRAFICANT) for doing everything he can to bring economic assistance to his constituents. As my colleague from Missouri said, we do that every day; 434 of us try to do that, and we work hard for our constituents, for jobs and economic development. The line of legality is crossed when we help ourselves for our benefit instead of helping our constituents for their benefit.

The gentleman from Ohio crossed that line when he worked for a company to get road contracts for his district, and then that company did improvements on his own private property. That is not lawful. And when he helped a family move an imprisoned loved one closer to home and then provided a list of improvements to be made to his properties, that was illegal. When he created a system of kickbacks by his congressional employees, that was outrageous and unlawful. When he helped a company receive Federal tax dollars that we vote for for worthwhile projects, and then they accept benefits to use personally, that was illegal.

□ 2145

Mr. Speaker, I know I am out of time, but we need to do our job, and we need to make sure that we remember we are only here temporarily, and this is the people's House.

These examples of violations of House Rules and U.S. Statutes by Congressman TRAFICANT clearly demonstrates a continuing abuse of his congressional office. That is why the Committee on Standards of Official Conduct voted unanimously to expel him. Congressman TRAFICANT is our colleague, and I do not like having to list his past mistakes, but I value the honor of this body above all else. Our colleague has brought disrespect on his House by his violations of law and for that reason, he must be expelled.

Mr. Speaker, Congressman TRAFICANT has been judged guilty by a jury of his peers in Ohio and a Committee of his peers in the House of Representatives. I urge my colleagues to show the American people that this body believes in the "rule of law" and vote to expel Congressman JAMES TRAFICANT.

We should all be appalled by this activity—we should not continue the image that elected officials are crooks who get special treatment. We need to act on this immediately—well after conviction but before sentencing next week.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from California (Mr. BERMAN) has 2¾ minutes remaining.

Mr. BERMAN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the gentleman from Ohio (Mr. TRAFICANT) is our colleague. We are involved in what is in a certain way a profoundly anti-democratic decision, one contemplated by our Founding Fathers, but anti-democratic because we are talking about expelling a Member who was elected for a term of office before that term is completed.

He is a friend to many. He has an irrepressible nature that all of us coming from a lot of different backgrounds have known about for a long time. In many ways he has been an effective colleague for the causes and issues that the gentleman believes in. But this body in its wisdom created a committee. The leadership of both sides appointed Members who have spent an incredibly large amount of time sifting through the evidence relating to four counts of conspiracy to commit bribery, each of them involving totally separate transactions with totally different witnesses; illegal gratuities under our bribery statute, filing false tax information, two separate counts; obstruction of justice.

Our committee, involving an equal number of Democrats and Republicans, covering an incredible range of philosophies and ideologies, going from people who barely new the respondent to a gentleman who has termed himself publicly as his closest friend in this House, have applied our rules to the facts as we see them and unanimously recommended expulsion. No one did it easily. For some, it was an incredibly difficult conclusion to reach.

Mr. Speaker, I think in the context of this process and our obligation to the American people, we are compelled to vote "aye" on the resolution to expel.

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

The SPEAKER pro tempore. The gentleman from Colorado (Mr. HEFLEY) has 1¼ minutes remaining.

Mr. HEFLEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the gentleman from Ohio (Mr. TRAFICANT) is a Member with whom many of us have served for years and years. Many of us are very fond of the gentleman from Ohio (Mr. TRAFICANT); but at times like these we are required to set aside those personal feelings, those feelings of friendship, and fulfill this weighty responsibility.

As chairman of the Committee on Standards of Official Conduct, it is my duty to ask the House of Representatives to expel the gentleman from Ohio (Mr. TRAFICANT).

I want to thank the members of the committee that I have served with through this. They serve us well. I want to thank our outstanding staff. They serve us well. And I particularly want to thank Members for being here for almost 3 hours. It is seldom that I have seen almost every Member of the House of Representatives on the floor for 3 hours. What that tells me is that Members take this as seriously as I do and as the rest of the committee does, and thank you for that. It is important that we do not take something like this lightly. We do not take it lightly.

Mr. Speaker, if I have any time remaining, I yield it to the gentleman from Ohio (Mr. TRAFICANT).

The SPEAKER pro tempore. The gentleman's time has expired.

The gentleman from Colorado (Mr. HEFLEY) has relinquished to the gentleman from Ohio (Mr. TRAFICANT) the right to close. The gentleman from Ohio has 3 minutes remaining.

Mr. TRAFICANT. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, 20 years and not one tape. Mr. Prosecutor from Missouri, am I that good? Come on.

$1.3 billion in that budget that I brought back, much of it from the help of the Republicans, the gentleman from Pennsylvania (Mr. MURTHA), the gentleman from Florida (Mr. YOUNG), thanks. Twenty-two percent unemployment, been under 7, and we are still hurting. I am proud of that.

He said that I took money from companies that did me favors. Look at the testimony of Susan Bucci. She said that they owed me money. I bushhogged 40 acres of their fields every year because her husband, Dan, was sick; and baled 25 acres of his hay every year for 5 years using my equipment and never charged him. She came to me when the brothers ripped her off.

You know, there is something unusual here. You did not elect me. Yes, you have the right to throw me out. My people do not want me out. There is something that was not allowed to be brought, and I give the gentleman from Colorado (Mr. HEFLEY) and the committee great respect; but ladies and gentlemen, you passed a 1967 Jury Service and Selection Plan in the Northern District of Ohio before TRAFICANT was indicted, passed a jury selection plan that was not ratified until after my indictment. They excluded people from my area that knew me and these witnesses from the jury pool.

This is not going to help me with the judge, but I think we have an aristocratic judiciary that looks at Congress like an advisory board. I think you better take that back.

Not one person who knew me or these witnesses was on the jury, and you did not subpoena one witness to validate that hearsay transcript.

Here is what I am saying to you. It is not a matter of liking me. A lot of Members do not like me because to get that $1.3 billion, I raided a lot of appropriations bills. But I want your vote. I want 145 votes and I want to be able to go up and I want to fight the Department of Justice and the IRS.

If they put me in jail, you have a very easy vote, and I predict you will. I think as a Member of Congress, I want you to think of this. There may come a time when you might get targeted.

You know what I was told? Watch what you say. You are too outspoken. Watch what you say. Shut up about the Reno case.

I am not going to shut up. I want your vote because I think my vote is your vote, and my people elected me and I do not think you should take their representative away. With that, thank you for giving me additional time, at least listening to me, and vote your conscience, nothing personal; and I hope I am back and get another $1.3 billion.

Mr. UDALL of New Mexico. Mr. Speaker, I had the honor to serve New Mexico as Attorney General. As Attorney General, I had the unfortunate task to prosecute elected officials for their violation of the law and the public's trust. Although, I accepted this duty, this was not an easy task to perform but one that had to be done. The Committee on Standards of Official Conduct has been asked to take on a difficult charge to examine whether Representative TRAFICANT violated the Code of Official Conduct while serving as a Member of Congress. And if so, whether those violations warrant his expulsion from the U.S. House of Representatives. I thank them for their service on this difficult matter.

This great body has expelled only four Members (three Members and one Member-elect) in its history—Three of whom were expelled during the Civil War period in 1861 for disloyalty to the Union and the fourth occurred in 1980 following a bribery conviction. There have been other Members who were subject to expulsion for offenses such as bribery, illegal gratuities and obstruction of justice—but rather than force the hand of the House to expel them, they took the noble way out and resigned their office. I had hoped that Representative TRAFICANT would have done the same thing, and resign his office rather than force the House to remove him. However, the current situation is before us, and we must act.

On April 11, 2002 the Committee on Standards of Official Conduct gave notice that the federal jury returned a guilty verdict in the criminal trial of Representative TRAFICANT. Six days later the Committee voted to establish an Investigative Subcommittee to conduct a formal inquiry regarding Representative TRAFICANT. On June 27, 2002 the Investigative Subcommittee transmitted to the full Committee on Standards of Official Conduct a 10 count Statement of Alleged Violations and set the stage for a public adjudicatory hearing to determine whether any counts in the Statement of Alleged Violations have been proven by clear and convincing evidence. I would like to read from the statement issued by the Committee:

"The Statement of Alleged Violations charge that Representative TRAFICANT violated the Code of Official Conduct of the House of Representatives and the Code of Ethics for Government Service through a number of means, including: Agreeing to perform, and performing, official acts on behalf of individuals and/or businesses for which those individuals and/or businesses agreed to and did provide Representative TRAFICANT with things of value; Agreeing to employ a member of his congressional district staff in exchange for $2,500 per month in salary kickbacks from the employee; Endeavoring to persuade this same employee to destroy evidence and to give false testimony to a federal grand jury; Defrauding the United States of money and property by a variety of means; Filing false income tax returns; Engaging in a continuing pattern and practice of official misconduct through which he misused his office for personal gain".

From July 15 through July 18 the adjudicatory House subcommittee heard from Representative TRAFICANT where he argued that he broke no laws and contended that the government was out to get him—the same argument he made during his criminal trial. He argued against each of the points that the Subcommittee Counsel raised and was unable to make a clear argument against the evidence raised. The Subcommittee eventually determined that he was guilty of several ethics violations and that nine of the ten counts were proven by clear and convincing evidence.

Representative TRAFICANT misused his office for personnel gain; he misused the public trust; he misused the public's money, through his conduct in receiving congressional salary kickbacks from employees and receiving personal labor and services from congressional staff while they were on congressional work time; and he misused his powerful position to persuade individuals to destroy evidence and provide false testimony to a federal jury to conceal his abuse of office.

Mr. Speaker prior to entering office we each made the following declaration:

I solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take his obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

While the power of removal is a strong measure and one that should never be taken lightly, it is one tool afforded to us by the Constitution to use on those who have violated their public trust as Members of Congress. Besides violating the public trust Representative TRAFICANT broke his solemn oath of office. He did not faithfully discharge the duties of the office, which he now serves, and because of this and the clear evidence before us he should be expelled from the House of Representatives.

Mr. HEFLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken.

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

RECORDED VOTE

Mr. HEFLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 420, noes 1, answered ''present'' 9, not voting 4, as follows:

[Roll No. 346]

AYES—420

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

NOES—1

Condit

ANSWERED ''PRESENT''—9

Bartlett
Bilirakis
Callahan
Ford
Hostettler
Otter
Paul
Simpson
Young (AK)

NOT VOTING—4

Bonior
Knollenberg
Stearns
Traficant

N O T I C E

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.

CONFERENCE REPORT ON H.R. 3763, SARBANES-OXLEY ACT OF 2002

Mr. OXLEY submitted the following conference report and statement on the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes:

CONFERENCE REPORT (H. REPT. 107–610)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3763), to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Sarbanes-Oxley 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.
Sec. 307. Rules of professional responsibility for attorneys.
Sec. 308. Fair funds for investors.

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.
Sec. 408. Enhanced review of periodic disclosures by issuers.
Sec. 409. Real time issuer disclosures.

TITLE V—ANALYST CONFLICTS OF INTEREST

Sec. 501. Treatment of securities analysts by registered securities associations and national securities exchanges.

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.
Sec. 703. Study and report on violators and violations
Sec. 704. Study of enforcement actions.
Sec. 705. Study of investment banks.

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. Attempts and conspiracies to commit criminal fraud offenses.
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.

TITLE X—CORPORATE TAX RETURNS

Sec. 1001. Sense of the Senate regarding the signing of corporate tax returns by chief executive officers.

TITLE XI—CORPORATE FRAUD AND ACCOUNTABILITY

Sec. 1101. Short title.
Sec. 1102. Tampering with a record or otherwise impeding an official proceeding.
Sec. 1103. Temporary freeze authority for the Securities and Exchange Commission.
Sec. 1104. Amendment to the Federal Sentencing Guidelines.
Sec. 1105. Authority of the Commission to prohibit persons from serving as officers or directors.
Sec. 1106. Increased criminal penalties under Securities Exchange Act of 1934.
Sec. 1107. Retaliation against informants.

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 under section 15(d) (15 U.S.C. 78o(d)), or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933 (15 U.S.C. 77a et seq.), and that it has not withdrawn.

(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 Sarbanes-Oxley 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 Sarbanes-Oxley Act of 2002),'' after ''government securities dealer,''.

(4) ENFORCEMENT BY FEDERAL BANKING AGENCIES.—Section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(i)) is amended by—

(A) striking ''sections 12,'' each place it appears and inserting ''sections 10A(m), 12,''; and

(B) striking ''and 16,'' each place it appears and inserting ''and 16 of this Act, and sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act of 2002,''.

(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 (or the Commission, by rule or order) 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. The Commission shall be responsible, prior to the appointment of the Board, for the planning for the establishment and administrative transition to the Board's operation.

(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 in each audit report the scope of the auditor's testing of the internal control structure and procedures of the issuer, required by section 404(b), 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 internal control structure and procedures—

(aa) include maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer;

(bb) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer; and

(III) a description, at a minimum, of material weaknesses in such internal controls, and of any material noncompliance found on the basis of such testing.

(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. The Board may conduct special inspections at the request of the Commission or upon its own motion.

(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 disciplinary action, if appropriate, 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) COORDINATION AND REFERRAL OF INVESTIGATIONS.—

(A) COORDINATION.—The Board shall notify the Commission of any pending Board investigation involving a potential violation of the securities laws, and thereafter coordinate its work

with the work of the Commission's Division of Enforcement, as necessary to protect an ongoing Commission investigation.

(B) REFERRAL.—The Board may refer an investigation under this section—

(i) to the Commission;

(ii) 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

(iii) 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.—Without the loss of its status as confidential and privileged in the hands of the Board, all information referred to in subparagraph (A) may—

(i) be made available to the Commission; and

(ii) 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, be made available to—

(I) the Attorney General of the United States;

(II) 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;

(III) State attorneys general in connection with any criminal investigation; and

(IV) any appropriate State regulatory authority,

each of 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. The provisions of section 17(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(a)(1)), and of section 17(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(b)(1)) shall apply to the Board as fully as if the Board were a ''registered securities association'' for purposes of those sections 17(a)(1) and 17(b)(1).

(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 Sarbanes-Oxley 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 Sarbanes-Oxley 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 Sarbanes-Oxley 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 Sarbanes-Oxley 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 Sarbanes-Oxley 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; and

''(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 (or at the beginning of the Board's first fiscal year, which may be a short fiscal year). The budget of the Board shall be subject to approval by the Commission. The budget for the first fiscal year of the Board shall be prepared and approved promptly following the appointment of the initial five Board members, to permit action by the Board of the organizational tasks contemplated by section 101(d).

(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). Accounting support fees and other receipts of the Board and of such standard-setting body shall not be considered public monies of the United States.

(2) FUNDS GENERATED FROM THE COLLECTION OF MONETARY PENALTIES.—Subject to the availability in advance in an appropriations Act, and notwithstanding subsection (i), 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. Such fee may also cover costs incurred in the Board's first fiscal year (which may be a short fiscal year), or may be levied separately with respect to such short fiscal year.

(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 (g), 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 (g), 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) LIMITATION ON FEE.—The amount of fees collected under this section for a fiscal year on behalf of the Board or the standards setting body, as the case may be, shall not exceed the recoverable budget expenses of the Board or body, respectively (which may include operating, capital, and accrued items), referred to in subsection (c)(1).

(g) 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.

(h) 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; and

(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 Sarbanes-Oxley Act of 2002.''.

(i) 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.

(j) START-UP EXPENSES OF THE BOARD.—From the unexpended balances of the appropriations to the Commission for fiscal year 2003, the Secretary of the Treasury is authorized to advance to the Board not to exceed the amount necessary to cover the expenses of the Board during its first fiscal year (which may be a short fiscal year).

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.—Except as provided in subsection (h), 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 Sarbanes-Oxley 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 or statutory audits required for insurance companies for purposes of State law) 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 during the fiscal year in which the nonaudit services are provided;

''(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 prior to the completion of the audit by the audit committee or 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 (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, 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 2 of the Sarbanes-Oxley 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 files or has filed a registration statement that has not yet become effective under the Securities Act of 1933 (15 U.S.C. 77a et seq.), and that it has not withdrawn.''.

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) REGULATIONS REQUIRED.—The Commission shall, by rule, require, for each company filing periodic reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)), that the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, certify in each annual or quarterly report filed or submitted under either such section of such Act that—

(1) the signing officer has reviewed the report;

(2) based on the officer's knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

(3) based on such officer's knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report;

(4) the signing officers—

(A) are responsible for establishing and maintaining internal controls;

(B) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such officers by others within those entities, particularly during the period in which the periodic reports are being prepared;

(C) have evaluated the effectiveness of the issuer's internal controls as of a date within 90 days prior to the report; and

(D) have presented in the report their conclusions about the effectiveness of their internal controls based on their evaluation as of that date;

(5) the signing officers have disclosed to the issuer's auditors and the audit committee of the board of directors (or persons fulfilling the equivalent function)—

(A) all significant deficiencies in the design or operation of internal controls which could adversely affect the issuer's ability to record, process, summarize, and report financial data and have identified for the issuer's auditors any material weaknesses in internal controls; and

(B) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and

(6) the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

(b) 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.

(c) DEADLINE.—The rules required by subsection (a) shall be effective not later than 30 days after the date of enactment of this Act.

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 inserting ''unfitness''.

(b) EQUITABLE RELIEF.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following:

''(5) 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.

(a) PROHIBITION OF INSIDER TRADING DURING PENSION FUND BLACKOUT PERIODS.—

(1) IN GENERAL.—Except to the extent otherwise provided by rule of the Commission pursuant to paragraph (3), 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 if such director or officer acquires such equity security in connection with his or her service or employment as a director or executive officer.

(2) REMEDY.—

(A) IN GENERAL.—Any profit realized by a director or executive officer referred to in paragraph (1) from any purchase, sale, or other acquisition or transfer in violation of this subsection 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.

(B) ACTIONS TO RECOVER PROFITS.—An action to recover profits in accordance with this subsection 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.

(3) RULEMAKING AUTHORIZED.—The Commission shall, in consultation with the Secretary of Labor, issue rules to clarify the application of this subsection and to prevent evasion thereof. Such rules shall provide for the application of the requirements of paragraph (1) with respect to entities treated as a single employer with respect to an issuer under section 414(b), (c), (m), or (o) of the Internal Revenue Code of 1986 to the extent necessary to clarify the application of such requirements and to prevent evasion thereof. Such rules may also provide for appropriate exceptions from the requirements of this subsection, including exceptions for purchases pursuant to an automatic dividend reinvestment program or purchases or sales made pursuant to an advance election.

(4) BLACKOUT PERIOD.—For purposes of this subsection, the term ''blackout period'', with respect to the equity securities of any issuer—

(A) means any period of more than 3 consecutive business days during which the ability of not fewer than 50 percent of the participants or beneficiaries under all 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 temporarily suspended by the issuer or by a fiduciary of the plan; and

(B) does not include, under regulations which shall be prescribed by the Commission—

(i) a regularly scheduled period in which the participants and beneficiaries may not purchase, sell, or otherwise acquire or transfer an interest in any equity of such issuer, if such period is—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before becoming participants under 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 individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction involving the plan or plan sponsor.

(5) INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection, the term ''individual account plan'' has the meaning provided in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34), except that such term shall not include a one-participant retirement plan (within the meaning of section 101(i)(8)(B) of such Act (29 U.S.C. 1021(i)(8)(B))).

(6) NOTICE TO DIRECTORS, EXECUTIVE OFFICERS, AND THE COMMISSION.—In any case in which a director or executive officer is subject to the requirements of this subsection in connection with a blackout period (as defined in paragraph (4)) with respect to any equity securities, the issuer of such equity securities shall timely notify such director or officer and the Securities and Exchange Commission of such blackout period.

(b) NOTICE REQUIREMENTS TO PARTICIPANTS AND BENEFICIARIES UNDER ERISA.—

(1) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by redesignating the second subsection (h) as subsection (j), and by inserting after the first subsection (h) the following new subsection:

''(i) NOTICE OF BLACKOUT PERIODS TO PARTICIPANT OR BENEFICIARY UNDER INDIVIDUAL ACCOUNT PLAN.—

''(1) DUTIES OF PLAN ADMINISTRATOR.—In advance of the commencement of any blackout period with respect to an individual account plan, the plan administrator shall notify the plan participants and beneficiaries who are affected by such action in accordance with this subsection.

''(2) NOTICE REQUIREMENTS.—

''(A) IN GENERAL.—The notices described in paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall include—

''(i) the reasons for the blackout period,

''(ii) an identification of the investments and other rights affected,

''(iii) the expected beginning date and length of the blackout period,

''(iv) in the case of investments affected, a statement that the participant or beneficiary should evaluate the appropriateness of their current investment decisions in light of their inability to direct or diversify assets credited to their accounts during the blackout period, and

''(v) such other matters as the Secretary may require by regulation.

''(B) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—Except as otherwise provided in this subsection, notices described in paragraph (1) shall be furnished to all participants and beneficiaries under the plan to whom the blackout period applies at least 30 days in advance of the blackout period.

''(C) EXCEPTION TO 30-DAY NOTICE REQUIREMENT.—In any case in which—

''(i) a deferral of the blackout period would violate the requirements of subparagraph (A) or (B) of section 404(a)(1), and a fiduciary of the plan reasonably so determines in writing, or

''(ii) the inability to provide the 30-day advance notice is due to events that were unforeseeable or circumstances beyond the reasonable control of the plan administrator, and a fiduciary of the plan reasonably so determines in writing,

subparagraph (B) shall not apply, and the notice shall be furnished to all participants and beneficiaries under the plan to whom the blackout period applies as soon as reasonably possible under the circumstances unless such a notice in advance of the termination of the blackout period is impracticable.

''(D) WRITTEN NOTICE.—The notice required to be provided under this subsection shall be in writing, except that such notice may be in electronic or other form to the extent that such form is reasonably accessible to the recipient.

''(E) NOTICE TO ISSUERS OF EMPLOYER SECURITIES SUBJECT TO BLACKOUT PERIOD.—In the case of any blackout period in connection with an individual account plan, the plan administrator shall provide timely notice of such blackout period to the issuer of any employer securities subject to such blackout period.

''(3) EXCEPTION FOR BLACKOUT PERIODS WITH LIMITED APPLICABILITY.—In any case in which the blackout period applies only to 1 or more participants or beneficiaries in connection with a merger, acquisition, divestiture, or similar transaction involving the plan or plan sponsor and occurs solely in connection with becoming or ceasing to be a participant or beneficiary under the plan by reason of such merger, acquisition, divestiture, or transaction, the requirement of this subsection that the notice be provided to all participants and beneficiaries shall be treated as met if the notice required under paragraph (1) is provided to such participants or beneficiaries to whom the blackout period applies as soon as reasonably practicable.

''(4) CHANGES IN LENGTH OF BLACKOUT PERIOD.—If, following the furnishing of the notice pursuant to this subsection, there is a change in the beginning date or length of the blackout period (specified in such notice pursuant to paragraph (2)(A)(iii)), the administrator shall provide affected participants and beneficiaries notice of the change as soon as reasonably practicable. In relation to the extended blackout period, such notice shall meet the requirements of paragraph (2)(D) and shall specify any material change in the matters referred to in clauses (i) through (v) of paragraph (2)(A).

''(5) REGULATORY EXCEPTIONS.—The Secretary may provide by regulation for additional exceptions to the requirements of this subsection which the Secretary determines are in the interests of participants and beneficiaries.

''(6) GUIDANCE AND MODEL NOTICES.—The Secretary shall issue guidance and model notices which meet the requirements of this subsection.

''(7) BLACKOUT PERIOD.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'blackout period' means, in connection with an individual account plan, any period for which any ability of participants or beneficiaries under the plan, which is otherwise available under the terms of such plan, to direct or diversify assets credited to their accounts, to obtain loans from the plan, or to obtain distributions from the plan is temporarily suspended, limited, or restricted, if such suspension, limitation, or restriction is for any period of more than 3 consecutive business days.

''(B) EXCLUSIONS.—The term 'blackout period' does not include a suspension, limitation, or restriction—

''(i) which occurs by reason of the application of the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934),

''(ii) which is a change to the plan which provides for a regularly scheduled suspension, limitation, or restriction which is disclosed to participants or beneficiaries through any summary of material modifications, any materials describing specific investment alternatives under the plan, or any changes thereto, or

''(iii) which applies only to 1 or more individuals, each of whom is the participant, an alternate payee (as defined in section 206(d)(3)(K)), or any other beneficiary pursuant to a qualified domestic relations order (as defined in section 206(d)(3)(B)(i)).

''(8) INDIVIDUAL ACCOUNT PLAN.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'individual account plan' shall have the meaning provided such term in section 3(34), except that such term shall not include a one-participant retirement plan.

''(B) ONE-PARTICIPANT RETIREMENT PLAN.—For purposes of subparagraph (A), the term 'one-participant retirement plan' means a retirement plan that—

''(i) on the first day of the plan year—

''(I) covered only the employer (and the employer's spouse) and the employer owned the entire business (whether or not incorporated), or

''(II) covered only one or more partners (and their spouses) in a business partnership (including partners in an S or C corporation (as defined in section 1361(a) of the Internal Revenue Code of 1986)),

''(ii) meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of this paragraph) without being combined with any other plan of the business that covers the employees of the business,

''(iii) does not provide benefits to anyone except the employer (and the employer's spouse) or the partners (and their spouses),

''(iv) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and

''(v) does not cover a business that leases employees.''.

(2) ISSUANCE OF INITIAL GUIDANCE AND MODEL NOTICE.—The Secretary of Labor shall issue initial guidance and a model notice pursuant to section 101(i)(6) of the Employee Retirement Income Security Act of 1974 (as added by this subsection) not later than January 1, 2003. Not later than 75 days after the date of the enactment of this Act, the Secretary shall promulgate interim final rules necessary to carry out the amendments made by this subsection.

(3) CIVIL PENALTIES FOR FAILURE TO PROVIDE NOTICE.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(A) in subsection (a)(6), by striking ''(5), or (6)'' and inserting ''(5), (6), or (7)'';

(B) by redesignating paragraph (7) of subsection (c) as paragraph (8); and

(C) by inserting after paragraph (6) of subsection (c) the following new paragraph:

''(7) The Secretary may assess a civil penalty against a plan administrator of up to $100 a day from the date of the plan administrator's failure or refusal to provide notice to participants and beneficiaries in accordance with section 101(i). For purposes of this paragraph, each violation with respect to any single participant or beneficiary shall be treated as a separate violation.''.

(3) PLAN AMENDMENTS.—If any amendment made by this subsection requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after the effective date of this section, if—

(A) during the period after such amendment made by this subsection takes effect and before such first plan year, the plan is operated in good faith compliance with the requirements of such amendment made by this subsection, and

(B) such plan amendment applies retroactively to the period after such amendment made by this subsection takes effect and before such first plan year.

(c) EFFECTIVE DATE.—The provisions of this section (including the amendments made thereby) shall take effect 180 days after the date of the enactment of this Act. Good faith compliance with the requirements of such provisions in advance of the issuance of applicable regulations thereunder shall be treated as compliance with such provisions.

SEC. 307. RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.

Not later than 180 days after the date of enactment of this Act, the Commission shall issue 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 issuers, including a rule—

(1) 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

(2) 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 of the issuer or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the issuer, or to the board of directors.

SEC. 308. FAIR FUNDS FOR INVESTORS.

(a) CIVIL PENALTIES ADDED TO DISGORGEMENT FUNDS FOR THE RELIEF OF VICTIMS.—If in any judicial or administrative action brought by the Commission under the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) the Commission obtains an order requiring disgorgement against any person for a violation of such laws or the rules or regulations thereunder, or such person agrees in settlement of any such action to such disgorgement, and the Commission also obtains pursuant to such laws a civil penalty against such person, the amount of such civil penalty shall, on the motion or at the direction of the Commission, be added to and become part of the disgorgement fund for the benefit of the victims of such violation.

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

(c) STUDY REQUIRED.—

(1) SUBJECT OF STUDY.—The Commission shall review and analyze—

(A) enforcement actions by the Commission over the five years preceding the date of the enactment of this Act that have included proceedings to obtain civil penalties or disgorgements to identify areas where such proceedings may be utilized to efficiently, effectively, and fairly provide restitution for injured investors; and

(B) other methods to more efficiently, effectively, and fairly provide restitution to injured investors, including methods to improve the collection rates for civil penalties and disgorgements.

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

(d) CONFORMING AMENDMENTS.—Each of the following provisions is amended by inserting '', except as otherwise provided in section 308 of the Sarbanes-Oxley Act of 2002'' after ''Treasury of the United States'':

(1) Section 21(d)(3)(C)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(C)(i)).

(2) Section 21A(d)(1) of such Act (15 U.S.C. 78u-1(d)(1)).

(3) Section 20(d)(3)(A) of the Securities Act of 1933 (15 U.S.C. 77t(d)(3)(A)).

(4) Section 42(e)(3)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(3)(A)).

(5) Section 209(e)(3)(A) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–9(e)(3)(A)).

(e) DEFINITION.—As used in this section, the term ''disgorgement fund'' means a fund established in any administrative or judicial proceeding described in subsection (a).

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 contains financial statements, and that is required to be prepared in accordance with (or reconciled to) 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 Sarbanes-Oxley 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 the Sarbanes-Oxley Act fo 2002, 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 (as defined in section 2 of the Sarbanes-Oxley Act of 2002), directly or indirectly, including through any subsidiary, to extend or maintain credit, to arrange for the extension of credit, or to renew an extension of credit, in the form of a personal loan to or for any director or executive officer (or equivalent thereof) of that issuer. An extension of credit maintained by the issuer on the date of enactment of this subsection shall not be subject to the provisions of this subsection, provided that there is no material modification to any term of any such extension of credit or any renewal of any such extension of credit on or after that date of enactment.

''(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 (12 U.S.C. 1464)), consumer credit (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), 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)), or a charge card (as defined in section 127(c)(4)(e) of the Truth in Lending Act (15 U.S.C. 1637(c)(4)(e)), or any extension of credit by a broker or dealer registered under section 15 of this title to an employee of that broker or dealer to buy, trade, or carry securities, that is permitted under rules or regulations of the Board of Governors of the Federal Reserve System pursuant to section 7 of this title (other than an extension of credit that would be used to purchase the stock of that issuer), that is—

''(A) made or provided 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 extensions of credit.

''(3) RULE OF CONSTRUCTION FOR CERTAIN LOANS.—Paragraph (1) does not apply to any loan made or maintained by an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), if the loan is subject to the insider lending restrictions of section 22(h) of the Federal Reserve Act (12 U.S.C. 375b).''.

SEC. 403. DISCLOSURES OF TRANSACTIONS INVOLVING MANAGEMENT AND PRINCIPAL STOCKHOLDERS.

(a) AMENDMENT.—Section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) is amended by striking the heading of such section and subsection (a) and inserting the following:

"SEC. 16. DIRECTORS, OFFICERS, AND PRINCIPAL STOCKHOLDERS.

''(a) DISCLOSURES REQUIRED.—

''(1) DIRECTORS, OFFICERS, AND PRINCIPAL STOCKHOLDERS REQUIRED TO FILE.—Every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered pursuant to section 12, or who is a director or an officer of the issuer of such security, shall file the statements required by this subsection with the Commission (and, if such security is registered on a national securities exchange, also with the exchange).

''(2) TIME OF FILING.—The statements required by this subsection shall be filed—

''(A) at the time of the registration of such security on a national securities exchange or by the effective date of a registration statement filed pursuant to section 12(g);

''(B) within 10 days after he or she becomes such beneficial owner, director, or officer;

''(C) 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 206(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note)) involving such equity security, 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.

''(3) CONTENTS OF STATEMENTS.—A statement filed—

''(A) under subparagraph (A) or (B) of paragraph (2) shall contain a statement of the amount of all equity securities of such issuer of which the filing person is the beneficial owner; and

''(B) under subparagraph (C) of such paragraph shall indicate ownership by the filing 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 such subparagraph.

''(4) ELECTRONIC FILING AND AVAILABILITY.—Beginning not later than 1 year after the date of enactment of the Sarbanes-Oxley Act of 2002—

''(A) a statement filed under subparagraph (C) of paragraph (2) shall be filed electronically;

''(B) the Commission shall provide each such statement on a publicly accessible Internet site not later than the end of the business day following that filing; and

''(C) 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.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective 30 days after the date of the enactment of this Act.

SEC. 404. MANAGEMENT ASSESSMENT OF INTERNAL CONTROLS.

(a) RULES REQUIRED.—The Commission shall prescribe rules requiring each annual report required by section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) 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 section 13(a) or 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 and 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 for senior financial officers.

(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.

SEC. 408. ENHANCED REVIEW OF PERIODIC DISCLOSURES BY ISSUERS.

(a) REGULAR AND SYSTEMATIC REVIEW.—The Commission shall review disclosures made by issuers reporting under section 13(a) of the Securities Exchange Act of 1934 (including reports filed on Form 10–K), and which have a class of securities listed on a national securities exchange or traded on an automated quotation facility of a national securities association, on a regular and systematic basis for the protection of investors. Such review shall include a review of an issuer's financial statement.

(b) REVIEW CRITERIA.—For purposes of scheduling the reviews required by subsection (a), the Commission shall consider, among other factors—

(1) issuers that have issued material restatements of financial results;

(2) issuers that experience significant volatility in their stock price as compared to other issuers;

(3) issuers with the largest market capitalization;

(4) emerging companies with disparities in price to earning ratios;

(5) issuers whose operations significantly affect any material sector of the economy; and

(6) any other factors that the Commission may consider relevant.

(c) MINIMUM REVIEW PERIOD.—In no event shall an issuer required to file reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 be reviewed under this section less frequently than once every 3 years.

SEC. 409. REAL TIME ISSUER DISCLOSURES.

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:

''(l) REAL TIME ISSUER DISCLOSURES.—Each issuer reporting under section 13(a) or 15(d) shall disclose to the public on a rapid and current basis such additional information concerning material changes in the financial condition or operations of the issuer, in plain English, which may include trend and qualitative information and graphic presentations, as the Commission determines, by rule, is necessary or useful for the protection of investors and in the public interest.''.

TITLE V—ANALYST CONFLICTS OF INTEREST

SEC. 501. TREATMENT OF SECURITIES ANALYSTS BY REGISTERED SECURITIES ASSOCIATIONS AND NATIONAL SECURITIES EXCHANGES.

(a) RULES REGARDING SECURITIES ANALYSTS.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15C the following new section:

"SEC. 15D. SECURITIES ANALYSTS AND RESEARCH REPORTS.

''(a) 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 section, rules reasonably designed to address conflicts of interest that can arise when securities 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—

''(1) to foster greater public confidence in securities research, and to protect the objectivity and independence of securities analysts, by—

''(A) 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;

''(B) 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

''(C) 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;

''(2) 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;

''(3) 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

''(4) to address such other issues as the Commission, or such association or exchange, determines appropriate.

''(b) 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 section, 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—

''(1) 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;

''(2) 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 paragraph of material non-public 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;

''(3) 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;

''(4) 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

''(5) 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.

''(c) DEFINITIONS.—In this section—

''(1) 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

''(2) 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 ''15D,'' 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 15D 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.

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 or associated person, 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 or associated person 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.''.

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:

''(6) 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—

(1) by striking paragraph (7) 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;'';

(2) in paragraph (8), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(9) 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))—

(i) by striking ''or (G)'' and inserting ''(H), or (G)''; and

(ii) by inserting '', or is subject to an order or finding,'' before ''enumerated'';

(B) in each of section 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))—

(i) by striking ''or (G)'' each place that term appears and inserting ''(H), or (G)''; and

(ii) 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))—

(i) by striking ''or (G)'' each place that term appears and inserting ''(H), or (G)''; and

(ii) 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—

(A) by striking ''or (8)'' and inserting ''(8), or (9)''; and

(B) 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.

SEC. 703. STUDY AND REPORT ON VIOLATORS AND VIOLATIONS.

(a) STUDY.—The Commission shall conduct a study to determine, based upon information for the period from January 1, 1998, to December 31, 2001—

(1) the number of securities professionals, defined as public accountants, public accounting firms, investment bankers, investment advisers, brokers, dealers, attorneys, and other securities professionals practicing before the Commission—

(A) who have been found to have aided and abetted a violation of the Federal securities laws, including rules or regulations promulgated thereunder (collectively referred to in this section 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 an action or proceeding (referred to in this section as ''aiders and abettors''); and

(B) who have been found to have been primary violators of the Federal securities laws;

(2) a description of the Federal securities laws violations committed by aiders and abettors and by primary violators, including—

(A) the specific provision of the Federal securities laws violated;

(B) 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;

(C) the occurrence of multiple violations by the same person or persons, either as an aider or abettor or as a primary violator; and

(D) 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

(3) the amount of disgorgement, restitution, or any other fines or payments that the Commission has assessed upon and collected from, aiders and abettors and from primary violators.

(b) REPORT.—A report based upon the study conducted pursuant to subsection (a) shall be submitted 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 6 months after the date of enactment of this Act.

SEC. 704. STUDY OF ENFORCEMENT ACTIONS.

(a) STUDY REQUIRED.—The Commission shall review and analyze all enforcement actions by the Commission involving violations of reporting requirements imposed under the securities laws, and restatements of financial statements, over the 5-year period preceding the date of enactment of this Act, to identify areas of reporting that are most susceptible to fraud, inappropriate manipulation, or inappropriate earnings management, such as revenue recognition and the accounting treatment of off-balance sheet special purpose entities.

(b) REPORT REQUIRED.—The Commission shall report its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 180 days after the date of enactment of this Act, and shall use such findings to revise its rules and regulations, as necessary. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 705. STUDY OF INVESTMENT BANKS.

(a) GAO STUDY.—The Comptroller General of the United States shall conduct a study on whether investment banks and financial advisers assisted public companies in manipulating their earnings and obfuscating their true financial condition. The study should address the

rule of investment banks and financial advisers—

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

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

(3) generally, in creating and marketing transactions which may have been designed solely to enable companies to manipulate revenue streams, obtain loans, or move liabilities off balance sheets without altering the economic and business risks faced by the companies or any other mechanism to obscure a company's financial picture.

(b) REPORT.—The Comptroller General shall report to Congress not later than 180 days after the date of enactment of this Act on the results of the study required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

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 20 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. The Commission may, from time to time, amend or supplement the rules and regulations that it is required to promulgate under this section, after adequate notice and an opportunity for comment, in order to ensure that such rules and regulations adequately comport with the purposes of this section.

''(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 10 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) is for—

''(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), any of the State securities laws, or any regulation or order 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 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) 2 years after the discovery of the facts constituting the violation; or

''(2) 5 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.

(a) ENHANCEMENT OF FRAUD AND OBSTRUCTION OF JUSTICE SENTENCES.—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) 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

(B) 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) 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

(5) the guidelines that apply to organizations in United States Sentencing Guidelines, chapter 8, are sufficient to deter and punish organizational criminal misconduct.

(b) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The United States Sentencing 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 180 days after the date of enactment of this Act, in accordance with the prcedures set forth in section 219(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

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 25 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. ATTEMPTS AND CONSPIRACIES TO COMMIT CRIMINAL FRAUD OFFENSES.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by inserting after section 1348 as added by this Act the following:

''§ 1349. Attempt and conspiracy

''Any person who attempts or conspires to commit any offense under this chapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(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:

''1349. Attempt and conspiracy.''.

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'' and inserting ''20''.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking ''five'' and inserting ''20''.

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 Act.

(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 Act, 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 whether the guideline offense levels and enhancements for violations of the sections amended by this Act are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this Act;

(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.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The United States Sentencing 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 180 days after the date of enactment of this Act, in accordance with the procedures set forth in section 219(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

SEC. 906. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by inserting after section 1349, as created by this Act, the following:

''§ 1350. 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 chief executive officer and chief financial officer (or equivalent thereof) of the issuer.

''(b) CONTENT.—The statement required under subsection (a) shall certify that the periodic report containing the financial statements fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act pf 1934 (15 U.S.C. 78m or 78o(d)) and that information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operations of the issuer.

''(c) CRIMINAL PENALTIES.—Whoever—

''(1) certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than $1,000,000 or imprisoned not more than 10 years, or both; or

''(2) willfully certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than $5,000,000, or imprisoned not more than 20 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:

''1350. Failure of corporate officers to certify financial reports.''.

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.

TITLE XI—CORPORATE FRAUD ACCOUNTABILITY

SEC. 1101. SHORT TITLE.

This title may be cited as the ''Corporate Fraud Accountability Act of 2002''.

SEC. 1102. TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively; and

(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 20 years, or both.''.

SEC. 1103. TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—Section 21C(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3(c)) is amended by adding at the end the following:

''(3) TEMPORARY FREEZE.—

''(A) IN GENERAL.—

''(i) ISSUANCE OF TEMPORARY ORDER.—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.

''(ii) STANDARD.—A temporary order shall be entered under clause (i), 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.

''(iii) EFFECTIVE PERIOD.—A temporary order issued under clause (i) shall—

''(I) become effective immediately;

''(II) be served upon the parties subject to it; and

''(III) unless set aside, limited or suspended by a court of competent jurisdiction, shall remain effective and enforceable for 45 days.

''(iv) EXTENSIONS AUTHORIZED.—The effective period of an order under this subparagraph may be extended by the court upon good cause shown for not longer than 45 additional days, provided that the combined period of the order shall not exceed 90 days.

''(B) PROCESS ON DETERMINATION OF VIOLATIONS.—

''(i) VIOLATIONS CHARGED.—If the issuer or other person described in subparagraph (A) is charged with any violation of the Federal securities laws before the expiration of the effective period of a temporary order under subparagraph (A) (including any applicable extension period), the order shall remain in effect, subject to court approval, until the conclusion of any legal proceedings related thereto, and the affected issuer or other person, shall have the right to petition the court for review of the order.

''(ii) VIOLATIONS NOT CHARGED.—If the issuer or other person described in subparagraph (A) is not charged with any violation of the Federal securities laws before the expiration of the effective period of a temporary order under subparagraph (A) (including any applicable extension period), the escrow shall terminate at the expiration of the 45-day effective period (or the expiration of any extension period, as applicable), and the disputed payments (with accrued interest) shall be returned to the issuer or other affected person.''.

(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)''.

SEC. 1104. 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 the 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 Sentencing Commission pursuant to paragraph (2) and any additional policy recommendations the Sentencing Commission may have for combating offenses described in paragraph (1).

(b) CONSIDERATIONS IN REVIEW.—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) ensure that guideline offense levels and enhancements for an obstruction of justice offense are adequate in cases where documents or other physical evidence are actually destroyed or fabricated;

(5) ensure that 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;

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

(7) 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 United States Sentencing 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 180 days after the date of enactment of this Act, in accordance with the procedures sent forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

SEC. 1105. AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3) is amended by adding at the end the following:

''(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) 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, or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.''.

(b) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end of the following:

''(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) 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 the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.''.

SEC. 1106. INCREASED CRIMINAL PENALTIES UNDER SECURITIES EXCHANGE ACT OF 1934.

Section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) is amended—

(1) by striking ''$1,000,000, or imprisoned not more than 10 years'' and inserting ''$5,000,000, or imprisoned not more than 20 years''; and

(2) by striking ''$2,500,000'' and inserting ''$25,000,000''.

SEC. 1107. RETALIATION AGAINST INFORMANTS.

(a) IN GENERAL.—Section 1513 of title 18, United States Code, is amended by adding at the end the following:

''(e) Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.''.

And the Senate agree to the same.

From the Committee on Financial Services, for consideration of the House bill and the Senate amendments, and modifications committed to conference:

MICHAEL G. OXLEY,
RICHARD H. BAKER,
ED ROYCE,
ROBERT W. NEY,
SUE W. KELLY,
CHRIS COX,
JOHN J. LAFALCE,
BARNEY FRANK,
PAUL E. KANJORSKI,
MAXINE WATERS,

Provided that Mr. Shows is appointed in lieu of Ms. Waters for consideration of section 11 of the House bill and section 305 of the Senate amendment, and modifications committed to conference:

RONNIE SHOWS,

From the Committee on Education and the Workforce, for consideration of sections 306 and 904 of the Senate amendment, and modifications committed to conference:

JOHN BOEHNER,
SAM JOHNSON,
GEORGE MILLER,

From the Committee on Energy and Commerce, for consideration of sections 108 and 109 of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
JAMES GREENWOOD,
JOHN D. DINGELL,

From the Committee on the Judiciary, for consideration of section 105 and titles VIII and IX of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,
LAMAR SMITH,
JOHN CONYERS,

From the Committee on Ways and Means, for consideration of section 109 of the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
JIM MCCRERY,
CHARLES B. RANGEL,

Managers on the Part of the House.

PAUL SARBANES,

CHRISTOPHER DODD,
TIM JOHNSON,
JACK REED,
PATRICK J. LEAHY,
RICHARD C. SHELBY,
ROBERT F. BENNETT,
MICHAEL B. ENZI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3763), to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The Managers on the part of the House and the Senate met on July 19 and July 24, 2002 (the House chairing), and reconciled the differences between the House bill and the Senate amendment.

From the Committee on Financial Services, for consideration of the House bill and the Senate amendments, and modifications committed to conference:

MICHAEL G. OXLEY,
RICHARD H. BAKER,
ED ROYCE,
ROBERT W. NEY,
SUE W. KELLY,
CHRIS COX,
JOHN J. LAFALCE,
BARNEY FRANK,
PAUL E. KANJORSKI,
MAXINE WATERS,

Provided that Mr. Shows is appointed in lieu of Ms. Waters for consideration of section 11 of the House bill and section 305 of the Senate amendment, and modifications committed to conference:

RONNIE SHOWS,

From the Committee on Education and the Workforce, for consideration of sections 306 and 904 of the Senate amendment, and modifications committed to conference:

JOHN BOEHNER,
SAM JOHNSON,
GEORGE MILLER,

From the Committee on Energy and Commerce, for consideration of sections 108 and 109 of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
JAMES GREENWOOD,
JOHN D. DINGELL,

From the Committee on the Judiciary, for consideration of section 105 and titles VIII and IX of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,
LAMAR SMITH,
JOHN CONYERS,

From the Committee on Ways and Means, for consideration of section 109 of the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
JIM MCCRERY,
CHARLES B. RANGEL,
Managers on the Part of the House.

PAUL SARBANES,
CHRISTOPHER DODD,
TIM JOHNSON,
JACK REED,
PATRICK J. LEAHY,
RICHARD C. SHELBY,
ROBERT F. BENNETT,
MICHAEL B. ENZI,
Managers on the Part of the Senate.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, WEDNESDAY, JULY 24, 2002 No. 102

Senate

The Senate met at 10 a.m. and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, whose patience lasts even when ours is tested, we praise You for this new day. Thank You for giving the Senators courage to battle for truth as they see it, deal with differences, and keep the unity of fellow patriots. The very nature of our system can foster party spirit. Help us maintain mutual esteem and trust without which nothing can be accomplished. Thank You for being the unseen but powerful Presence in this chamber. Keep us open to You and respectful of each other. Bear on our hearts the words of Thomas Jefferson after the contentious election of 1800: ''The greatest good we can do our country is to heal its party divisions and make them one people.'' We dedicate ourselves to remember this today and throughout this election year.

At 3:40 p.m. today we will remember the sacrifice in the line of duty of Officer Jacob J. Chestnut and Detective John M. Gibson. Continue to bless their families. Help us to express our gratitude to the officers who serve in Congress wth such faithfulness. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON 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 24, 2002.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Nebraska 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, today will be a very busy day, which will begin with morning business until 11 a.m. The first half of the time is under the control of Senator DASCHLE, which time has been given to the Senator from Michigan, Ms. STABENOW. The second half of the time is under the control of the Republican leader or his designee.

At 11 o'clock, the Senate will resume consideration of the prescription drug bill, with 2 hours of debate in relation to the Hagel second-degree amendment.

At 1 p.m., the Senate will resume consideration of the supplemental conference report, with 30 minutes of debate prior to a 1:30 p.m. rollcall vote on adoption of the report.

Following disposition of that conference report, there will be 5 minutes of debate, equally divided on each side, on the Hagel amendment, followed by a vote in relation to that amendment.

At 3:40, as has been announced in the prayer by the Chaplain, we will remember the deaths of Officer Chestnut and Detective Gibson.

Following the vote on Hagel, we will go then to an amendment to be offered by Senator ROCKEFELLER. We expect to finish that fairly quickly and then go to another amendment or two today. The leader expects to work toward completing the bill this week.

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 11 a.m., with Senators permitted to speak therein for up to 10 minutes each.

The first half of the time shall be under the control of the majority leader or his designee. The second half of the time shall be under the control of the Republican leader or his designee.

The Senator from Minnesota is recognized.

(Ms. STABENOW assumed the Chair.)

MINNESOTA NEEDS DISASTER RELIEF

Mr. WELLSTONE. Madam President, I am joined by Senator DAYTON from Minnesota and the occupant of the Chair. We come to the floor this morning because we want to communicate a respectful, sincere, and honest message to each and every one of our colleagues.

It has been my experience in the Senate over the past 12 years that sometimes you just have to fight for people—not with acrimony, but you have to fight for people. In Minnesota, 17

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

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counties have been declared Federal disaster areas due to tremendous floods last month. As a result, Northwest Minnesota, a rich agricultural region, has been devastated. According to the Minnesota Farm Service Agency at least $370 billion in damage to the agriculture sector has been caused, due to these floods. We tried to include disaster relief in the supplemental bill. Unfortunately we could not do it because the administration said don't even try, no way. While there is some help for the Federal Emergency Management Agency, which is important, FEMA cannot help the farmers and the Small Business Administration cannot help the farmers.

This is a case of ''there but for the grace of God go I.'' I said this to my colleagues yesterday, and I want to say it again today. I have never voted against disaster relief assistance for anybody in the country, be it a hurricane, tornado, fire, drought, or flooding. If, God forbid, it happens to others, we want to help.

This administration has said no to any emergency disaster assistance for agriculture. The President has said any emergency assistance for agriculture must come out of the farm bill. The farm bill is about loan rates, dairy, conservation and fair prices for farmers. The farm bill is about economic assistance, not natural disasters.

So our message today is this: We are going to look at every appropriations bill, and if any appropriations bill comes out on the floor and there is assistance for fire or any other emergency that has happened—be it for Arizona, or for flooding in Texas, or anywhere else—we will slow up that bill. In fact, we will stop that bill if we need to until we get the commitment that there will be the funding for emergency disaster assistance for the farmers in Minnesota, or for the farmers in Nebraska, for the people we represent.

Time is not neutral. People need help now. We intend to make the Senate address this issue. I yield to my colleague from Minnesota.

The PRESIDING OFFICER. The junior Senator from Minnesota is recognized.

Mr. DAYTON. Madam President, I thank the Senator for graciously taking the Chair so Senator NELSON could join with the Senator from Minnesota and myself. I know the Senator from Michigan, who is presiding, has strong support for this disaster assistance as well. I want to say to my colleague and friend, the senior Senator from Minnesota, I am proud to stand with him today, and I am proud to follow his leadership on this disaster assistance legislation.

The Senator and I both serve on the Senate Agriculture Committee, along with our colleague from Nebraska. The Senate Agriculture bill had disaster assistance funding in it. The House and the administration would not agree to the inclusion of disaster assistance in the package, which came out of the conference committee and was enacted into law.

As the Senator said, it is imperative that the Senate and the House and the administration join together, given what happened in Minnesota, with 17 counties declared a disaster area because of excessive flooding in June. During a recent visit, I saw whole fields of crops underwater—giant lakes created by torrential rains one week, and again the week following. It is hard to see people, many of whom lost their crops last year, struggling again this year.

I asked Secretary of Agriculture Veneman last week in a committee hearing: Where is this money that is purportedly available in the legislation that was passed for disaster aid? And she could not identify any.

I join with my colleague in saying we must have this assistance. The Senate did it right in its version of the Farm bill. Unfortunately, the House and the administration have blocked disaster aid. We have to try again because farmers are going under if we do not.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. I thank my distinguished colleague from Michigan for exchanging positions for a moment so I have an opportunity to make a statement about the importance of having disaster relief in the soonest possible timeframe.

Over the last several years in developing a farm policy, we have gone from virtually no help to a new farm program that is designed to help get agriculture on its feet, but it is designed to do that in a time when we would expect normal conditions. It is not designed to take care of disaster situations we are facing today for the livestock industry in particular.

If we are not able to step forward at this time, take care of this situation, and provide hope for the livestock industry in our country, particularly those that are experiencing severe drought, as in the case of Nebraska and the Midwestern States, many of those farmers and ranchers are going to divest themselves of their herds. They are going to cut down the size of their herds. They are going to sell off their breeding stock to survive under these terrible conditions. They are not going to be able to rebuild those herds overnight. It will take years to rebuild.

There is no coverage in the Crop Insurance Program for parched pastures that today will not sustain the grazing of our cattle. There is no support in the farm bill for those farmers and ranchers who are experiencing the losses on the livestock side. For those in this body who are looking for offsets, which is important in the Senate, they are looking for money. To go after the farm bill and the funding for building agriculture and take that money now to support the livestock industry is not the way to go. What we need to do is recognize that this is an emergency situation like other emergencies and it is a disaster that must, in fact, be addressed right now.

Many of the people who voted for the last four or five disaster programs without requiring any kind of an offset are today saying: If we do it today, we have to find an offset. It is because today we have a farm bill, and they found the source of dollars. That is the only reason I think they are looking at that program.

Robbing Peter to pay Paul at the present time will mean that both Peter and Paul will not make it. What we need to do is face this as a reality so that the farmers in Nebraska and the farmers all across our country, those who are selling their livestock, will know there is help on the way; that they can be sustained; that they are not going to have to sell off their herds.

As we look at this downward spiral, the spinoff problems are consequential. In addition to having smaller herds, there will be less cattle to eat corn. In a bumper crop year, there will be more corn, and therefore that will depress the price of corn.

This is not a situation without consequences to those outside interests. It will harm the smaller communities that depend on agricultural income for their very existence. We must, in fact, act now and not make this a partisan or political football to kick back and forth. We must, in fact, step forward now and recognize the urgency of this situation and not hold the farmers and ranchers of the livestock industry hostage while others are playing partisan politics.

I thank the Senators from Minnesota and other colleagues who are looking forward to having an emergency aid package, recognizing this disaster at the soonest possible time.

I yield the floor. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. Mr. President, we are playing revolving chairs today. It is a pleasure to be in the Chamber with you. I indicate to my colleagues—the Senator from Nebraska and my colleagues from Minnesota—that I completely understand and support what they are fighting for and join them in that fight.

We also have had in northern and western Michigan disasters that happened as late as this spring where we have seen our cherry crop wiped out because of extremely hot weather, in the nineties, and then immediately going into freezing temperatures. We have seen our orchards literally wiped out in terms of the ability to produce cherries and other crops.

When this happens to our farmers, it is critical we step forward in a bipartisan way and do everything we can to support them to get through this year, to get through these disasters.

PRESCRIPTION DRUG BENEFIT

Ms. STABENOW. Mr. President, I rise today, as I have now for many

weeks, and in particular in the last 2 weeks, focusing on prescription drugs, which is another disaster, quite frankly, that has been facing our seniors, our families, our farmers who are trying to find health insurance for their families, our small businesses that are seeing their health care premiums double in some cases, trying to afford health care for themselves and their employees.

I rise on behalf of those workers who have had their employer say: You are going to have to take a pay freeze this year because we have to have money to pay for health care benefits.

I rise for those manufacturers that are seeing an explosion as well, and basically for everyone who is paying the price for the explosion in prescription prices, and the system that is basically out of control.

We have been working hard in the last week and a half. I think we are making some progress, but we are not there yet.

Yesterday, we had an opportunity to vote on two different plans before the Senate. One was a plan to strengthen Medicare, to put a system in place that was promised in 1965 with the advent of Medicare: That once you are 65 or you are disabled, you will know that health care is available for you. We all pay into the system. The promise was made, and we have been trying to update and modernize that system to reflect the way health care is provided today, which is primarily on an outpatient basis with prescription drugs. Yesterday, we had that plan that would pay the majority of the bill and would do it within Medicare, which we know works.

Then we had another plan much more focused on private insurance, HMOs, and I believe a step in privatizing the system. Quite frankly, that is supported by the drug industry, the pharmaceutical industry that has a situation right now for them that is too good to give up voluntarily. They fight everything. They fight any effort to modernize Medicare, to put 40 million people, seniors and disabled persons, in one insurance system because they know that if 40 million seniors and disabled persons are in a system together, they will be able to get a group discount, like all the other insurance companies. They are fighting that. They know when the Federal Government goes to buy for veterans in the VA hospitals, we do not pay retail, we get a discount on behalf of the veterans.

The outrageous part of the system today is that the only people who pay retail, the only people who walk into the pharmacy and have nobody negotiating on their behalf, are the seniors of this country and those who are disabled and need help with health care.

Everybody else gets a discount. So we are trying to change that. The companies are fighting us every step of the way.

I think we did something historic yesterday. We did not get all the way to where we need to be, but for the first time in the Senate—52 people, a majority of our colleagues—voted for a Medicare prescription drug benefit. Unfortunately, in this process we need to get to 60 votes, but I believe we sent a very strong message with 52 people—and the other plan, in fact, had fewer; I believe it was 48 people that voted for that plan. So fewer than the majority voted to move in the direction of privatizing, to set up a system that is much more favorable to the drug companies.

A majority of us, in fact, said we want to do this under Medicare; we want to pay the majority of the bill for our seniors. I am very hopeful that now we will be able to bring enough of our colleagues together, on both sides of the aisle, to be able to get those eight extra votes for something that moves us in the right direction. We know it is not going to be all that we had originally hoped, but I desperately hope the drug companies are not successful again in stopping anything real from happening.

I believe this is a point in history that people will look to just as they will look to 1965, and it is up to us to show that we will do the right thing.

Mr. DORGAN. Mr. President, will the Senator from Michigan yield for a question?

Ms. STABENOW. I would be honored to yield to my friend from North Dakota, who has been such a leader in this effort.

Mr. DORGAN. I would like to ask a question of the Senator from Michigan. It is true that yesterday we had 52 votes for a prescription drug plan in the Medicare Program. It is also true that we desperately need it. Medicare is now roughly 40 years old. Had we had these lifesaving and miracle drugs available when Medicare was created, there is no question that we would have had a prescription drug benefit in the Medicare Program. Our task now is to put a prescription drug benefit in the Medicare Program and do it in a way that does not break the bank. Both goals are important.

Yesterday, we had 52 votes for a prescription drug plan in the Medicare Program, but we need 60. It is also true that although a majority of the Senate have now expressed themselves that they want this prescription drug plan in the Medicare Program, a minority of the Senate can block it.

My hope is we will find a way now to reach 60 votes put a prescription drug plan in the Medicare Program in a thoughtful, responsible manner, that is helpful to senior citizens. At the same time we must put downward pressure on prescription drug prices. Both approaches are necessary.

I ask the Senator from Michigan if it is not the case that although we had 52 votes and the Senate has already said, yes, let us do it, a minority can block it? The question is, over the next 48 hours, Will a minority in the Senate block the majority's efforts to pass this bill? Is that not where we stand at this point?

Ms. STABENOW. That is exactly where we stand. My friend from North Dakota is correct. That is exactly where we stand. The question is, Will the minority be able to block what the majority of people want to have happen?

Turning back and asking my friend a question as well, I want to say for those who are watching today, there is a way to express yourself. We certainly hope you will engage with your Senator. You can also go to fairdrugprices.org and be part of an online petition drive urging the Senate to act, and share your own individual story. We have never had a more important time for people to be involved. We need people now to be involved. There are six drug company lobbyists for every one Member of the Senate, but the majority of the people in this country, regardless of where they live, know that we need action for them now, and that is what this is about.

Since my colleague has been a leader in another important effort, lowering prices for everyone, which is the other piece of the puzzle, we want to make sure Medicare is updated to cover prescriptions for those on Medicare, and that is critical. But for everyone else who is not on Medicare, they also pay too much, and there are a number of efforts we are equally engaged in to get more competition, to lower prices for everyone, and I wonder if I might ask my colleague to speak to that specifically, since we have joined in efforts to open the border to Canada, and other efforts.

I know that the Senator has been very involved in those efforts to create more competition.

Mr. DORGAN. Mr. President, the Senator from Michigan knows that one issue with respect to this bill is adding a prescription drug benefit to the Medicare Program, but that is not the only issue concerning prescription drugs in this country. The other issue is that all Americans who get sick, who have a disease or an illness and who need prescription drugs need to be able to afford and have access to these medicines. Miracle drugs provide no miracles, lifesaving drugs save no lives for those who cannot afford them. So we are trying to find a way to put some downward pressure on prescription drug prices.

The fact is that American people are charged the highest prices in the world for prescription drugs. Virtually everyone else in the world buys the same pill, put in the same bottle, made by the same company, and pays a much lower price. There is no Republican or Democratic way to get sick. There is no Republican version of Celebrex, Zocor, or tamoxifen, and there is no Democratic version of Celebrex, Zocor, or tamoxifen. There is just sickness, medicine, and need.

I want the drug companies to do well. I want them to invest in research, experimentation, and finding drugs. We are doing that in the public sector,

doubling the amount we are spending on the National Institutes of Health searching for cures for these diseases. By the same token, I want what we reap from all this research to be affordable by the American people who need them when they get sick.

Regrettably, what has happened is every year the cost of prescription drugs is going up—18 percent last year, 16 percent the year before, 17 percent the year before that. There is this relentless increase in the cost of prescription drugs, and the fact is a lot of vulnerable people in this country desperately need those drugs and cannot possibly afford them.

Yes, it is important we do a prescription drug benefit in the Medicare Program. Fifty-two Senators have already said yes. The question is, Will a minority block us in the next day or two from getting this done?

We also need to find a way to put downward pressure on prices. One way we have worked on—and the Senator from Michigan has been a leader—is the reimportation of prescription drugs from Canada. The same drug, put in the same bottle, made by the same company, is sold in Canada at a fraction of the cost that the American consumer is charged.

To use one example, someone suffering from breast cancer who needs to take the drug tamoxifen is going to pay $100 for that which they could buy for $10 in Canada, the same medicine made by the same company, FDA approved, similar bottle, different price. The U.S. consumer is charged 10 times more than the Canadian consumer. It is wrong, it is unfair, and it ought to stop. These are the things on which we are working.

Ms. STABENOW. Absolutely.

Mr. DORGAN. We do not have perfect solutions, but we must in the next day or two make progress to get this bill completed so that we can go to conference with the House and make prescription drugs available to senior citizens, especially in the Medicare Program, and also begin to find a way to bring prescription drug prices down for all of us.

I appreciate the work the Senator from Michigan has done. She has done in her leadership position a lot of work on this issue, and I deeply appreciate it.

Ms. STABENOW. I thank my colleague from North Dakota.

To support the comments of the Senator from North Dakota, it is so frustrating to look at what is happening, and I think so unfair for consumers in the United States, taxpayers, and ratepayers. People say: How can this happen?

The reality is that today, while the companies say, oh, no, they cannot possibly lower prices at all because they would have to cut research, we know today that they spend two and a half times more on advertising, marketing, and administration than they do on research. When we look at the numbers for last year, the top companies' profits were three times more than they spent on research. This is not about research. We all are for research and, as my friend from North Dakota indicated, we as taxpayers fund research. This year we will contribute over $23 billion to basic research. I support that. I support doing more than that. It is an important investment.

After we do that, the companies take the basic information and see if they can develop new lifesaving medicine. That is great. However, we give tax deductions for research, as well as advertising and other costs of doing business. When they get to the point where they actually have a new drug, we give them a patent of up to 20 years to protect their competitive edge, their brand name, so they can recover their research costs.

We know it costs a lot of money to develop a lifesaving drug. We want to make sure it is a good investment and they can recover their costs. The problem is, we get done with all of this and what do we have? The highest prices in the world—higher than anyone else. If you are uninsured and using medications—which is primarily the seniors of this country—and you walk into your pharmacy, you get the great pleasure and honor of paying the absolutely highest prices in the world. That is outrageous. That is what we are trying to fix, both by making sure the health care system works with medications through Medicare, and also making sure that we have greater competition, that we address the outrageous spiraling prices and we can bring those down for everyone. That is the point of the debate.

We made some progress through amendments last week on cost containment. Yesterday we had an important debate on Medicare coverage. The question now is whether or not we will be able to get this done on behalf of the American people. I am hopeful we will be able to do that.

I am happy to yield to my friend.

Mr. DORGAN. Some say, when you talk of prescription drug prices, let the market decide. There is, after all, an open, free market; let the market decide.

Is it not the case that there is no free market for prescription drugs in this country? There are price controls in the United States but the prices are controlled by the pharmaceutical industry, and they like that. I understand that. Most other countries have price controls in which the governing authority sets the price, including profit, and the drug manufactures market those drugs in those countries under those conditions.

In this country, there are no such limitations. So in this country, you can charge whatever you like. The problem is, what if you charge too much for tamoxifen? What if you charge 10 times more than you should for tamoxifen, and they can actually buy it for one-tenth the price in Winnipeg, Canada? What prevents the consumer from voting with their feet and going to Canada? What prevents it is a perversion of the free market, and that is a law that says the pharmacist at the Main Street drugstore, the distributor cannot access drugs and bring them back.

There is a law that creates an artificial barrier against the free market working. When we try to change that, people say they are worried about bioterrorism, poppy seeds in Afghanistan, or they are worried the Moon is made of blue cheese—the most Byzantine arguments I have heard since I have been in the Senate.

Is it not the case that to say let the market decide, the free market is not a free market with respect to drug pricing in the United States?

Ms. STABENOW. The Senator is absolutely correct. There is not a free market. There are barriers placed in the way from real competition, real trade across the border, and there are ways now that the companies stop competition—buying up generic companies and blocking other competition.

I say in conclusion, unfortunately, we cannot just say, let the free market prevail. We are not talking about optional products. We are not talking about a family saying, we cannot afford a new car this year, we will wait; we cannot afford a pair of new tennis shoes or lawn equipment. We are talking about lifesaving medicine. Sometimes when people have to wait, they do not survive. This is different. We have to be serious about the difference.

I urge my colleagues to come together and get something done.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mrs. HUTCHISON. Mr. President, I rise today to speak in favor of the emergency supplemental appropriations bill on which we will be voting at about 1:30 this afternoon. It is high time we pass this bill. The President asked for emergency appropriations to fund the Department of Defense and the war on terrorism about 4 months ago. It is critical. It contains $14 billion to fund the war on terrorism. With the cost of antiterrorist operations in Afghanistan and elsewhere exceeding $2 billion per month, these funds are certainly needed.

Because Congress has taken so long to produce this bill, the Pentagon has already reached into $3 billion worth of funds budgeted for ongoing activities in the fourth quarter of the current fiscal year.

Last week, the Pentagon's comptroller warned of dire consequences if Congress did not provide the funds soon. He said the Department would have to suspend ship deployments and aircraft training operations for units that are not forward deployed, with the result that many units would no longer

be able to respond to any crisis that might emerge.

Many spare parts and supplies no longer could be ordered, and both ship maintenance and maintenance on critical aircraft, such as the EA–6B jammers and the F/A–18 fighter/attack aircraft, would come to a halt. Scheduled moves for military personnel would be disrupted, jeopardizing school years for children and job opportunities for spouses. As many as 35,000 civilians could be furloughed from the Department of defense.

Passage of this bill will guarantee our military does not run out of funds before the fiscal year 2003 Defense appropriations bill is sent to the President's desk, hopefully by October 1 of this year.

This bill also helps Texans who have been devastated by two disasters at the same time—a severe lack of water in the Rio Grande River Valley in south Texas and heavy flooding in central Texas.

This emergency legislation will help south Texas farmers by providing $10 million to make up for some of the losses they incurred during the last crop year due to lack of water. Families are suffering because their livelihood depends on water and Mexico has failed to deliver, under the United States-Mexico water treaty of 1994, the water that is owed. This treaty obligates Mexico to allow 350,000 acre feet of water to flow to the Rio Grande river annually while obliging the United States to allow 1.5 million acre feet of water to flow to Mexico from the Colorado River.

Since 1992, Mexico has incurred a debt of 1.5 million acre feet of this water to the United States, while the United States has continually complied with our water obligations under the treaty. Because Mexico has failed to deliver its treaty obligated water, south Texas has lost over 5,000 jobs each year and suffered $230 million per year in lost business activity. The economic loss to the region since 1992 is estimated to be $1 billion. This situation has become critical due to the continuing drought conditions in both south Texas and Mexico.

The bill also provides $100 million in assistance for emergency use—$50 million for fires, $50 million for floods—to hundreds of thousands of Americans who courageously fought to survive the wrath of scorching wildfires and unyielding flash floods that swept across New Mexico, Colorado, Arizona, Montana, Utah, Wyoming, Texas, and many other areas of our Nation. These natural disasters rip through our towns, threaten our families, wreck our homes and businesses, destroy our heirlooms, and leave us stripped of resources to begin putting the pieces back together.

On the Fourth of July, when most of the Nation was celebrating America's birthday, central Texans were evacuated from their homes by the thousands. Texas rivers were on the rise and were cresting at record levels, more than 20 feet above flood stage in most locations. By the time most of America's firework had burned out, the Medina River crested at a ferocious 44 feet above flood stage south of San Antonio. The storm left Texas with four people injured, four missing, and mourning the tragic deaths of nine.

I thank the Texas Department of Emergency Management and the Federal Emergency Management Agency, FEMA, for their rapid response and rescue efforts for thousands of people who evacuated their homes, some of whom had only a few precious minutes to muster their families and secure their most valuable possessions.

Imagine having to choose between saving your family photo album, your great-grandfather's journal, or your family Bible.

I particularly want to thank Joe Albaugh, the Director of the Federal Emergency Management Agency, who toured with some of us in the congressional delegation to see the floods firsthand so he could come back and make sure he had made all of the efforts that could be made, all that were possible to give help to the people of south central Texas.

The flood waters have dropped in Texas and people are now diligently working to clean and repair their homes and businesses. The total damages are still being assessed, and it is estimated they will reach another billion dollars. So I urge my colleagues to agree to this supplemental appropriations conference report to help them begin to put their lives back together in south central Texas.

In addition, I want to mention Amtrak because this bill does restore a commitment to Amtrak, and $4.4 billion in vital highway funding to the States that would have been lost due to a decrease in gasoline tax revenue. Amtrak, in particular, deserves our continued attention. Our national passenger rail system is teetering on the edge of the abyss. The bill merely pulls it back a few inches. We must find a way for Amtrak to achieve long-term financial security through a dedicated funding source similar to the way we fund highways and aviation transportation. Otherwise, we will face these emergencies every year, and service will continue to deteriorate.

At the same time, Amtrak's new leadership must eliminate this regional bias which has infected the railroad since its inception. Amtrak must stop sending all of its resources to the Northeast corridor, which is probably the only place in America with reliable rail service. Even so, the Northeast corridor is losing money every bit as fast as the rest of the system.

I have inserted language into the Amtrak authorization, of which I am a cosponsor, that would force the railroad to spend its money proportionately throughout the system. That way, passengers in Texas, Washington State, and Mississippi can enjoy the kind of service that Northeast commuters have had for decades.

I think we can have a national rail system for our country. I think it is important that we do so. We have the outline of such a railroad system today in Amtrak, but we have not funded it at a level where we could have and expect stable service.

So I hope we will not only give Amtrak its lifeline today—which I believe that we will—but let's look at ways we can stabilize Amtrak so all the places that now get service can get reliable service, ontime service. Every time Amtrak threatens to pull the long-haul lines—which they did earlier this year—we lose thousands of reservations from people not knowing if they are going to be able to use their tickets, if they are going to go somewhere and not be able to get back, so it hurts the system even more. That is why we need to have stability so people can count on the service for which they are paying. We owe them that.

We cannot possibly judge Amtrak unless we give them reliable service that would give us fair criteria. But to think we are going to do it on an operationally self-sufficient basis is ludicrous. We are not. No country in the world does. We are going to have to give it a stable revenue base and then hold the officers and board accountable for knowing how to run a railroad. I think it is time we do all these things and keep the commitment to having rail service in our country.

Rail service is every bit as important an alternative as highways, as buses on the highways, as airports and aviation. We need all kinds of transportation in our country. In some places, freight is most easily and efficiently transferred from State to State across our country via rail. In some places, people cannot get to an airport. They do not live in a place that even has bus service. So they need another alternative that will allow them to travel across our country. This is part of national security. It is part of a stable economy. I think we need to just make a commitment and do it right. We have not been doing it right. We have been putting Band-Aids on Amtrak ever since we revived it years ago. Now is the time to do it right.

I think this supplemental appropriations bill is a good one. It meets the needs of our military and our homeland defense, which certainly have been in a crisis situation for the last few months as we have debated this bill. It also addresses the emergencies in our country, from fires raging across the western part of the United States to floods in my home State of Texas. And it does help us revive Amtrak, hopefully to give the leadership of Amtrak—new leadership, I might add—the ability to get this job on track and hopefully to do it right.

Mr. President, I urge my colleagues to support this bill and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, what is the state of the proceedings at this point?

The ACTING PRESIDENT pro tempore. The minority controls the next 14½ minutes.

STRENGTHENING CORPORATE ACCOUNTABILITY WHILE STRENGTHENING CORPORATE INNOVATION

Mr. HATCH. Mr. President, the Senate accomplished two significant feats last week. First, this body took strong action to ensure that candor and accountability will be watchwords in the world of corporate accounting. We have given the Securities and Exchange Commission the tools it needs to better do its job of ensuring that financial statements tell investors, in plain English, how our nation's corporations are really doing. And we crafted 21st-century criminal statutes and tougher penalties for those corporate wrongdoers who willfully mislead investors about corporate finances, and we are still working on that language.

Second, and more important, we resisted to a great extent the temptation to turn this bill, on which Senator SARBANES and Senator GRAMM worked so hard, into a tool for demagoguery. With the continuing reports of shoddy bookkeeping at some of our biggest companies, with terrible news coming from Wall Street these past few weeks, and with continuing layoffs at major corporations, it is no wonder that many pundits across the country, and even a few of our colleagues, were tempted to cast about, looking for a bill to support—any bill at all—that could make them look tough on white-collar crime.

But the battle is not over yet. We know that here in Congress, as well as in the regulatory agencies and in State governments, there are still moves afoot to impose more rules, more regulations, and more punishments on American businesses. There are those who are predicting that this wave of corporate scandals could give rise to a new era of big government, much like the Progressive Era or even the Great Depression.

I rise today, to say that this Nation must not return down that failed path. A new era of ''re-regulation'' would, without a doubt, damage or destroy the twin engines of innovation and capital formation that have made the American people the richest people the world has ever known. A new era of re-regulation, however well-intentioned, would put us on the path that Europe and Japan have recently trod. We would be playing a constant game of catch-up with whatever country was in the economic lead. People in the leading countries would have access to new inventions today, and then, years later, citizens of the sluggish United States would finally be able to afford them. That is the kind of trickle-down we need to avoid, and that is the kind of trickle-down that the good people of Europe and Japan live with every day.

I have faith that the American people will not be led down that path. Instead, I believe that they will remember that in the late 1990s, the forces of competition gave birth to modern wonders in the fields of medicine and telecommunications while Congress cut capital gains taxes and balanced the budget. We saw the promise of venture capital unleashed, as many new start-ups tried out their new ideas in the marketplace even though we knew in advance that only a few would succeed.

And as investment and innovation increased, our workers became more productive, and higher productivity led, as always, to higher wages and better living standards. Census figures show that since 1980, the share of families earning over $100,000 per year doubled, even after adjusting for inflation. The number of people living in poverty has declined, and the only reason it has not declined faster is because this land of opportunity draws in poor immigrants from throughout the world. In many cases, however, within a generation these immigrants will rise into the middle and upper ranks of income-earners.

And, most saliently, this prosperity reached into almost every part of American life. Overall unemployment rates reached the lowest levels in 30 years, and every race and every age group saw its fortunes improve. Just as the 1980s debunked the pessimists who thought that stagflation and malaise were the waves of the future, so the 1990s, with unemployment rates getting down to 4 percent, debunked those who thought that unemployment rates below 6 percent inevitably spark inflation.

Despite the fact that the American people have endured a year of high energy prices, a painful recession, waves of corporate accounting scandals, and the horrific attacks of September Eleventh, our economy's foundations remain strong. Innovation and capital formation have continued even during the depths of the recession, to the amazement of the pessimists. Despite the many buffetings our nation has endured, America's workers are more productive today than they were just a year ago. That continued the trend of the last few years, where we saw productivity grow at an annual rate of 3.1 percent.

We have seen the unemployment rate shoot up from its 30-year low of 3.9 percent up to 5.9 percent in June. Mere numbers, of course, can never convey the real cost of losing a job. And tragically, recessions continue to hurt workers months and months after sales pick up. But clearly, this recession is like no other that we have seen: manufacturing has been hit hard, very hard, by this recession. Workers in those industries, and people who live in towns that rely on those industries, have paid a heavy price.

But our economy's resilience and flexibility is amazing, and this resilience shows in our labor markets, where our nationwide average unemployment rate of 5.9 percent, while still too high, would have been hailed during most of the 1980's and 1990's. And if Congress acts to restore the economy to its potential, enacting policies that encourage innovation and capital formation, we can continue to improve our standard of living, get the unemployment rate back down, and make our economy more resistant to the inevitable economic shocks of our modern world.

As Chairman Greenspan noted last Tuesday, Congress can strengthen our economy's long-run potential through strong fiscal discipline, so that more of our economy's resources are in the hands of our innovating private sector. And since capital formation and technical innovation are keys to productivity growth, we should move aggressively toward expensing capital equipment and finally making the research and development tax credit permanent.

The accounting reform bill we passed last week is a good bill, and once it comes out of conference, I hope it is even better. The Senate bill reduces the potential for conflicts of interest between auditing and consulting services. It ensures that the government will vigorously scrutinize audits to ensure that the balance sheet is telling the real story. And it modernizes the criminal codes to deal with the corrupt few who knowingly break the rules outright.

But once the final version of this bill becomes law, that is by no means the end of the story. Once the regulators get ahold of the final bill, it will, once again, become a target for anti-corporate activists, those who distrust bigness, who distrust success, and who distrust the competitive spirit of the American people. They will seek to pressure the SEC and the Financial Accounting Standards Board to enact rules that express their hostility toward corporate America. And however well-intentioned the goals of these activists, they could have disastrous consequences.

Let us consider an example that sounds reasonable enough. I started off by noting that the Sarbanes bill would ensure that financial statements tell investors, in plain English, how our nation's corporations are really doing. There are good reasons for reporting financial statements in language that ordinary investors can understand, and the SEC has done a good job encouraging corporations and financial services companies to avoid unneeded jargon in their official statements. But at the same time, we need to remember that while corporate finance is not rocket science, it is not that far from it.

Some issues will be hard to understand, and they should stay that way. If we insist that every financial dealing be completely understandable to the average investor, then you know what we will end up with. Corporations that

the average investor would not want to invest in. Investors want their companies to be run by people who know more about finance than they do, just as they want our homes built by people who know more about construction than they do. Sure, it is good to know the broad outlines about how a house is built. But we expect construction workers to use their specialized knowledge, knowledge that is difficult to convey to a layperson.

The same holds true in the world of corporate management. Even after these accounting reforms are up and running, accounting is still going to sound like a foreign language to most people, and plenty of run-of-the-mill business decisions are going to sound complex to outsiders. Critics will accuse anything with a footnote of being a loophole, just another example of ''crony capitalism.'' They will put pressure on America's businesses to simplify their businesses so that it can be ''transparent'' to outsiders. But we cannot give in to the urge to insist that corporate finance be intelligible to high-school students, and we cannot allow pressure groups to dictate how to organize a business.

We have seen unjustified awards destroy the careers of many good doctors who can no longer get malpractice insurance just because juries end up being swayed by emotion and genuine human suffering rather than by the difficult medical issues at hand. We cannot let the same thing happen to corporate America.

Finally, I want to address an overarching question: Do we really live in a world where a couple of crafty and unscrupulous executives can destroy an entire Fortune 500 company? Is our market economy really a house of cards that needs the ever-present support of the Federal Government to keep from falling down? I do not believe the evidence supports these pessimistic conclusions. The companies that have been in the news made bad business decisions generated by what Chairman Greenspan called ''infectious greed,'' which they covered up with accounting chicanery. It was the bad business decisions that were the root cause here, made far worse by the fact that the mistakes were successfully covered up for so long.

By tightening the auditor's scrutiny of business decisions, we expect that in the future, bad decisions will be uncovered sooner, before too much damage is done to the company and to its stock price. But business decisions will continue to be made, both good and bad, and companies will continue to rise and fall as customers and shareholders vote with their dollars. That, as Secretary O'Neill noted, is the ''genius of the market.''

And that brings me to my final point. If auditors uncover a serious problem with a company's books, who will fix it? Surely, in most cases, the board of directors will act aggressively to sack the problem executives and install a new team that will work hard to put things right. Especially with the incentive of stock options and stock ownership, the new management team, facing auditor scrutiny, will have strong reasons to do the best they can to boost shareholder value. The punishments dealt by the stock market are already giving corporations a strong incentive to reform, as stockholders press for clarity and boards of directors interrogate their CEOs and demand answers.

But what about those occasional situations where the directors are either incompetent or out of touch? In practice, it is very difficult for shareholders to replace directors on their own. There are sometimes millions of individual shareholders, each of whom has little incentive to put in the time and effort of replacing their directors. It is almost always easier to sell the badly-performing stock than it is to replace incompetent directors. At this point, our last best hope is that much-maligned character from the 1980s, the hostile takeover artist.

The Sarbanes bill uses the phrase ''protection of investors'' over 20 times. But who protects investors better than someone who invests a large sum of cash into a failing company, kicks out the old, ineffective, perhaps even corrupt management, and installs new leaders dedicated to maximizing long-run shareholder value? But while we have seen numerous large mergers over the last decade, why have we not seen as many genuinely hostile takeovers? The answer, of course, is legislation. In this case, it was not federal law but state laws that stemmed the tide of hostile takeovers, as laws made it easier for sloppy management to fend off takeover advances. So even if improved audits uncover corporate incompetence or worse, shareholders could still be left with bad managers and worthless investments.

The accounting reform legislation on which we have worked will break new ground in the realm of investor protection. It will increase transparency and punish wrongdoers. But that is only half the battle against corporate mismanagement. The second half of the battle comes when directors and shareholders take action to purge the ineffective executives and restore the profitability of their investments. In time, I hope Congress takes action to assist them. The combined calls by the President and the Senate for directors with greater independence is a strong step in that direction.

In closing, I want to draw attention again to the true foundation of our nation's prosperity—our nation's workers, the most productive in the world. Whether they work in a factory, behind a desk, or on a farm, the American worker can produce more in an hour than any other worker in the world. That is because they have access to better tools, better knowledge, better education, and in particular, better organizations. From old-economy stalwarts such as Ford to new-economy innovators like Intel to our ever-modernizing agribusiness sector, our economy's large organizations help to coordinate the activities and innovations of countless numbers of people so that we can accomplish more with our scarce time. The quality of American automobiles, the speed of American-designed microprocessors, and the produce of America's farms keep increasing each and every year. I am confident that our accounting reforms, if enforced prudently, will help to strengthen the American corporation's ability to innovate. And by doing so, all Americans will reap the rewards.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 812, which the clerk will report.

The bill clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Pending:

Reid (for Dorgan) amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

Hagel Amendment No. 4315 (to amendment No. 4299, as amended), to provide Medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs.

AMENDMENT NO. 4315

The PRESIDING OFFICER (Ms. LANDRIEU). Under the previous order, there will now be 120 minutes for debate on the Hagel amendment No. 4315, with 60 minutes each under the control of the Senator from Nebraska, Mr. HAGEL, or his designee, and the Senator from Massachusetts, Mr. KENNEDY, or his designee.

Who yields time?

The Senator from Massachusetts.

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

Madam President, yesterday we had a very important debate, and we also had the Members of the Senate voting on two important measures for the prescription drug program. I am a strong supporter of the proposal that was offered by the Senator from Florida, Mr. GRAHAM, and Senator MILLER from Georgia. That amendment achieved 52 votes in the Senate. A majority of the Members voted in favor of a program based upon the Medicare system, a program that closes the great loophole that is part of our Medicare system, which so many of our seniors are faced with every single day.

We had a good debate on that measure. And we had a good debate on the Republican alternative, which I believe, as I expressed during the course of the debate, falls well short of meeting the needs of our seniors. The alternative plan is inadequate, full of loopholes, and fails to address the overarching issue of prescription drugs for our seniors. But, nonetheless, we had a good debate.

There are those who supported that program. Obviously, their interpretation differed with my interpretation of the program, and they believed—and continue to believe strongly—that their program was the best way to achieve the objective of universal coverage of seniors in this country. We did not have a difference in terms of the underlying concept, we had a difference in terms of approach. I believed—and still believe—we would be unable to guarantee protections for our elderly under the Republican proposal. But that was the matter of the debate. The Senate spoke. And it spoke more favorably of the proposal offered by Senator GRAHAM than the Republican proposal.

Now we have an entirely different proposal before the Senate. I, quite frankly, believe—even though I was highly skeptical of what they call the tripartisan proposal—that this does not even measure up to the tripartisan proposal.

What we are attempting to do in the Senate is to pass a program that will reach all of our seniors, and do it in a way that is going to be affordable for our seniors. That is one of the great features of the underlying proposal, which we all support on this side of the aisle. And it does include measures that have been accepted both in our HELP Committee, as well as on the floor of the Senate that deal with the issue of the cost of prescription drugs.

We want to make prescription drugs affordable, we want to make them accessible, and we want to build on a system in which the seniors have confidence. That is why, quite frankly, we find that virtually all the seniors groups have supported the proposal of Senator GRAHAM and Senator MILLER. They all support that proposal. Virtually none of them support the tripartisan program. And virtually none of them support this particular proposal.

It seems to me, as we stated yesterday, our seniors—who have fought in the wars, brought us out of the Depression, and built this Nation up to be the great country that it is—are entitled to more than crumbs in terms of the prescription drug program.

They are living longer, thankfully, and families are blessed by the presence of their parents and grandparents. These days, a number of generations—three or four generations—can be alive at the same time. That is all very good.

I cannot understand, for the life of me, why the Senate would be willing to accept the amendment which is being offered now, which is so inadequate that it does not even deserve to be called prescription drug coverage under Medicare. It is a step backwards, not forwards, in mending the broken promise of Medicare and providing senior citizens the health security they deserve.

It provides no real cost containment for the explosive growth of prescription drugs. That is a major problem. We have had good debate on those measures, but this proposal has no cost containment. Its funding is so inadequate that it would pay about a dime on the dollar toward prescription drug costs of the elderly—a dime on the dollar. One of the things we want to avoid in the Senate is telling our seniors that we are doing something meaningful for them in terms of prescription drugs and then failing to meet that test. When you are down to a dime on the dollar for prescription drugs, I believe this amendment fails to live up to a prescription drug coverage for the elderly.

It is a catastrophic-cost-only plan. We tried that once, and the elderly, themselves, rejected it. I was here in the Senate when we tried the catastrophic program for the elderly, and they, themselves, rejected it. We can come back to that discussion later on if we want to.

Under this amendment, a poor senior citizen with an income of less than $9,000 a year would have to pay $1,500—17 percent of their income—before they got any help.

A low-income senior with an income of only $18,000 a year would have to pay $3,500—20 percent of their meager income—before they got any help.

A moderate-income senior citizen with an income of $35,000 would have to pay $5,500—16 percent of their income—before they got any help.

This isn't insurance, and this isn't Medicare. If it were to become law, senior citizens would still be choosing between whether they are going to put food on the table or take the medicines they need to survive. If it were to become law, senior citizens would still face the prospect of having their lifetime savings swept away by the high cost of prescription drugs. If it were to become law, the broken promise of Medicare would remain broken.

Beyond the simple fact that this benefit is inadequate, it violates a basic principle of Medicare, by effectively imposing a means test. Medicare is one of the most beloved and successful programs ever created. The reason it has such broad public support is that it is universal social insurance. Everyone contributes, and everyone benefits.

Republicans have wanted to turn Medicare into a welfare program ever since it was created. This plan is, I believe, just another step in that direction. The American people rejected that approach in 1965, and I think they still reject it today.

This bill is more inadequate than the House Republican bill. It is more inadequate than either of the two bills just voted on by the Senate. It is not supported by a single organization of the elderly or the disabled. And it does not deserve the support of the Senate.

If we are going to take steps to try to respond to the needs of the elderly, it seems to me we ought to be able to gain the support of those groups. We have to ask ourselves, each time we consider legislation, who benefits? Obviously, we also have to ask, who pays? The taxpayer. Who benefits from this program, and how do they react to this program? The elderly, and they are not in support of the program.

The fight for a real Medicare prescription drug benefit did not end yesterday. We will continue to fight until senior citizens have the protections they deserve.

A vote for this bill is a vote to substitute a political fig leaf, a very small fig leaf, for the real protection the elderly need.

I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Madam President, I yield 5 minutes to my colleague from Tennessee.

Mr. FRIST. Madam President, I rise in support of the Hagel-Ensign bill because it really strikes right at the heart of what seniors expect from our Government as they look at their health care and as they look to their future.

When I talk to seniors as I travel around the great State of Tennessee and the country, they tell me a very simple and straightforward message regarding prescription drugs: Please, when you go back to Washington, enact a prescription drug benefit and do it now. Do not do it 3 or 4 years from now—implementing the program in 7 or 8 years. What I want is something now; do it now.

The beautiful thing about the Hagel-Ensign bill—and I congratulate the authors and sponsors and cosponsors—is that it is the only bill that has come to the floor of the Senate that enacts a prescription drug benefit now. Our seniors deserve an affordable, immediate prescription drug coverage. That is No. 1: Do it now. This is the only bill we have considered that accomplishes that.

No. 2: do it responsibly. That is where the debate has changed a lot compared to 2 years ago or 4 years ago or even prior to the last election a year and a half ago. Our seniors today, individuals with disabilities and the future generation of seniors say: Do it now, but do it responsibly. Responsibly means to have a bill on the table that can be sustained over time, which does not sunset or have a narrow window of applicability. Do it now; do it responsibly.

Yesterday, we talked about bills on the floor that cost $800 billion or, over a full 10-year period, $1 trillion, and that did not pass. Additionally, we debated a bill that cost about $370 billion. That bill did not have sufficient votes for the point of order. Today, we are

talking about a bill that costs less than $200 billion—well within what we have budgeted.

Even more importantly than cost, is that this particular bill captures the power of what is called competition or the marketplace. What that means is what we pass today in terms of benefits, in terms of the prescription drug card, and in terms of the catastrophic coverage will be able to be sustained over time. When you capture the element of competition in the delivery, what you say is that there will be prudent tradeoffs, and decisions made regarding—whether it is inpatient hospital care, acute care, chronic care, preventive care, or prescription drugs.

When I say ''tradeoffs,'' I don't mean lessening of the benefits. I mean bringing people to the table so rational decisionmaking can take place, given that the benefits that are promised need to be matched with the resources that are available.

The Hagel-Ensign bill is immediate, affordable, and permanent. It is not promised just for a period of time. Finally, it is market based—capturing the power of competition so that it can continue to deliver the benefits over time.

For that reason, I am excited about this bill. I urge my colleagues to support this bill. We will have the opportunity to debate and discuss the details over the next 2 hours. In short, it is a prescription drug card where every senior who participates can get a discount instead of paying retail for drugs. Additionally, there is a cap as to how much they will have to pay out of pocket. This cap provides seniors with security and peace of mind that in the event they are struck by a lymphoma, heart or lung disease and have to buy prescription drugs that they will only have to pay a certain amount. For those reasons, I urge support for this immediate, affordable, permanent, and market-based plan.

The PRESIDING OFFICER. The Senator has used 5 minutes. Who seeks recognition? Who yields time?

Mr. HAGEL. Madam President, I yield my colleague from Nevada 5 minutes.

Mr. ENSIGN. Madam President, I want to talk about a couple of philosophies that deal with this bill. We currently have a health care system that has evolved over time where we have low deductible policies and we have usually a small copay involved. That low deductible coverage over time has taken the patient out of the accountability loop.

Somebody goes into the office. They have an annual deductible. They don't pay attention. They go in and they start getting their health care coverage. The doctor tells them whatever they should do. The doctor is trying to rush people through. They don't think the patient is paying for the care. So they don't take the time to explain why certain tests cost money. They know somebody else is paying for it. They don't think about the patient's cost because it isn't the patient. It is an insurance company that is paying the cost.

By taking that patient out of the accountability loop, costs have skyrocketed in the United States. That is the fundamental flaw to the insurance system we have in our health care delivery system today. It would be akin to having homeowners insurance that paid for doing the landscaping around your house or painting the trim. We don't expect that. We expect those normal maintenance costs to be paid out of pocket.

But if something like a fire happens to your house or some kind of other horrible thing happens—for example, I recently had a hose break in our washing machine. We ended up with probably about $30,000 worth of damage. Unfortunately, we had gone on vacation when the hose in the washing machine broke. We came home. There was all kinds of damage. We had to have floors replaced, walls; it was about $30,000 worth of damage. Our insurance kicked in. But I didn't expect my homeowners insurance to pay for repainting the trim on my house or landscaping or things like that.

That is normal expenses in everyday life. That is why homeowners insurance has remained relatively inexpensive over the years. Health care insurance has not, because the patient doesn't think about the cost.

Our plan says: Let's keep the patient accountable. Let's keep the senior citizen accountable. Senior citizens don't want to put a huge burden onto young people. Yes, they would like prescription drug coverage.

The Senator from Massachusetts mentioned that seniors don't want to lose what they have saved for all the years. They want to make sure they have some security in their assets.

We have said: Let's keep the patient in the accountability loop. Low-income seniors in our bill will pay the first $1,500 or about $120 a month out of pocket. They are going to pay that. Seniors can afford to pay that. They are willing to do that. After that, the Government is going to pay—other than a small copay—is going to pay so that the senior who has diabetes, a heart condition, cancer, that senior is going to be covered under our plan and is going to keep from losing all of their valuable assets.

So because the first dollar coverage is paid by the senior instead of the Government, our plan is much more fiscally responsible to the next generation. That is why, when Senator FRIST talked about it being a sustainable plan, our plan, in the future, will be sustainable because the patients—the senior citizens themselves—will shop for medicine; they will not just take whatever the doctor says. They will ask: what about generics? Is there a generic for that? They will do that because they are paying the first dollars out of their pockets. They will also ask: Do I need that medication? I am taking four medications. Do I need all four? Maybe the doctor would say: I forgot about the other medication you were taking.

So this brings the patient back into being accountable for their own health care. That is critically important to our health care system and especially to this new prescription drug coverage that we want to add to Medicare.

Madam President, I urge my colleagues to look at this very reasonable proposal. It is something that can be done, and can be done now, and it can be made permanent.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I think we ought to have at least some understanding about what the challenge is. We make decisions in the Senate, and this is basically a question of priorities. The issue that is before us, in the broader context, is whether we believe it's a priority to do something to keep the costs down in terms of prescription drugs for our senior citizens, our fellow citizens.

Now, our good friends on the other side say: Look, we want to do something, but we are not going to do very much. It is better than doing nothing at all.

I would like to believe we are capable of doing something more for those Americans who have been called the greatest generation. Rather than giving them crumbs, it seems to me we ought to give them a decent benefit package that is built upon the Medicare system. That is what is supported by all of the elderly groups.

The question is, do we have the will? Or are we going to just trim something off the edges and give them a little something? If you are making $8,000 or $9,000, you are going to have to spend $1,500 before you ever get anything at all.

It seems to me this is a question of priorities here in the Senate for the greatest generation, for our senior citizens: Are we prepared to make a commitment that will ensure them a benefit package that is equal to the request by this President for tax cuts this year—$600 billion? I don't hear any proposals from the other side saying, let's defer that $600 billion tax cut and put it in here for prescription drugs. Let us not try to shortchange our senior citizens.

There are two issues which are underlying all of this. One is the issue of cost, which is clearly demonstrated by this chart. The yellow represents the consumer price index, the gradual increase in inflation, and the blue represents the drug costs that are going up every year. There is nothing in the Hagel proposal that does anything to get a handle on these costs. Those costs are going to continue to go up. There is no proposal in there that does anything about cost. But there is another very important proposal that we

have before the Senate—and we welcome the support of our Republican colleagues—that can make a difference in terms of cost.

Our Democratic program deals with the issues of cost and also with the issues of coverage. Cost is going up. Our seniors need help. Let's just look at what we are facing globally in the United States in terms of prescription drugs and our seniors and where they are.

We have 13 million who have virtually no coverage at all; 10 million have coverage in employer-sponsored programs—we will come back to that—13 million have none, and 10 million are in employer sponsored programs; 5 million are in the Medicare HMO; 2 million are in Medigap; 3 million are in Medicaid, and another million have other kinds of public coverage. The only seniors who are protected in this whole group are the ones with Medicaid. They are the ones who are guaranteed. The rest of them are not, and we will see very quickly why they are not protected.

Remember now, 13 million have none and 10 million are employer sponsored, 5 million in HMOs, and 2 million in Medigap. Let's take the employer-sponsored group. Look at what happened in the employer-sponsored programs. This chart shows what has been happening in the employer-sponsored programs. Firms offering retiree health coverage dropped 40 percent between 1994 and 2001. That line is going down through the cellar of the Senate. Those 10 million who were covered by employer-sponsored plans are going right on down. They are being dropped every single day. Make no mistake about it.

Under the Republican proposal that was before the Senate yesterday, this decrease would have been accelerated for 3 million seniors in that program because the employers would not receive any of the assistance they need to retain them.

So the 10 million who have the employer sponsored are going down. We have the 13 million who have none and 10 million who are employer sponsored. They are increasingly at risk every single day.

Well, you say, we still have 4 million who have HMO coverage. Look at the bottom line here. Look at the Medicare HMOs, reducing the level of drug coverage. This is going down every single year—70 percent of the HMOs limit their drug coverage to $750. So even if you have some coverage up to $750, you are paying higher and higher costs. That wasn't the case 5 or 7 years ago, but it is the case now. Fifty percent of the Medicare HMOs with drug coverage only pay for generic drugs. So this is what is happening now. The HMOs the 4 million people who have some kind of coverage are being restricted, they are being limited, they are being conditioned every single day.

Increasing numbers of our seniors are not being taken care of. This is what we are facing in our country. The answer we had before the Senate yesterday was a comprehensive program built upon Medicare, which is affordable, which is dependable, which is reliable, which is defensible, and which the overwhelming majority of the elderly support. We have 52 votes for it. We would like to build on that. We are attempting to do so. Now, with the Republican program—as I pointed out, I didn't agree with it, I didn't support it. But at least those who did support it made the case that it was going to be able to provide universal coverage. They said, look, we can do it through the private sector, and if the private sector won't provide the coverage in remote areas, we are going to continue to fund them until at last they do.

I suppose at the end of the day you can find someone who will sell a prescription drug program in a remote area of Alaska if you pay them enough to do so. Our concern is that with the amount of money we are spending to pay the private sector, we ought to be using it in the benefit package, ought to be enhancing the benefit package, providing additional kinds of relief for our senior citizens.

Now along comes a proposal that is opposed by the AARP. Here is a letter that was circulated yesterday. It says:

Given these concerns, the AARP opposes your amendment.

The reason the seniors oppose it is they don't really believe that this will be any substantial or significant help, or even a little help, to the seniors in this country. They believe what we ought to do is build upon the Medicare system, a system that has been tried and tested, and has performed over the test of time. As the leading organization of the elderly finds, this proposal is completely inadequate. At least we ought to live up to our hopes and our dreams for our seniors, and that is to cover all of them.

We ought to cover all of them. What happens to those seniors who are making $7,000 or $8,000, $9,000? They have to pay out $1,500. Think of this: An elderly person who has worked all of his or her life and has $9,000 in income. Now they have to pay out all of this money. They have to pay out $1,500 before they get any assistance at all. On what are they going to live? Think of the difficult choices and decisions they have to make to come up with that $1,500. Then they will have to pay a copay after that.

A low-income person with only $18,000 in income will have to pay $3,500, 20 percent of their meager income before they get any help. This is well above what any average senior citizen is paying at this time. The average citizen is paying somewhere around $2,000. A person with an income of $18,000 will have to pay $3,500. They are making $18,000 a year and we are calling that moderate income.

How do people get along with $18,000 a year to pay for a mortgage, pay for the heating of their home, pay for their food, pay perhaps for a summer camp for their children or grandchildren? How do people get along on that $18,000? The fact is, people are hard-pressed, and I think for us in this body to accept the concept that we have done something for our seniors with this is a complete misstatement. I just do not see how we can support this proposal.

Nothing in this proposal deals with the cost of prescription drugs—this limited program is unworthy of what we in this body ought to be about. 52 Members of the Senate on our side, and 48 Members on the Republican side voted for a universal plan. Now, we are back in less than 24 hours talking about a catastrophic program that will only reach a small number of people and will put people through the wringer to do so. I think this institution, this body, can do better.

I strongly believe that seniors, who are faced with this national challenge and who are suffering and experiencing these extraordinary choices every single day deserves a great deal better. That is why I hope eventually that this amendment will not be accepted.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ENSIGN. Madam President, I am the designee of the Senator from Nebraska. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Madam President, I wish to address some of the concerns of the Senator from Massachusetts. First, there are many States, at the income levels he is talking about—$9,000, $10,000, $11,000, and even in my State of Nevada up to the $22,500 a year level—that are already providing some help for senior citizens.

The Republican Governor of my State was very visionary and put together something called the Senior Rx Program using part of the money from the tobacco settlement. For people with an income of $21,500 or less—they are non-Medicaid-eligible people—as long as they have been a resident of Nevada for at least 12 months, they can have a maximum benefit of $5,000 a year. They have no premium. They pay $10 for generic drugs and a $25 copay for preferred drugs.

In the State of Nevada, that person Senator KENNEDY was talking about who makes $9,000 a year is taken care of. In fact, that person does very well. That person does better than under the Democrat proposal—much better.

Also, if you go out and talk to seniors—I have been in a couple of very time-consuming and all-encompassing campaigns 2 out of the last 4 years—I talked to seniors all over our State, and if you say to them they are going to be limited to about $100, $120 a month of out-of-pocket expenses for those low-to moderate-income people, they are ecstatic; they will jump at that. They will say: Sign me up, as long as they are limited from losing everything or from being bankrupted

based on prescription drugs or not being able to pay their rent.

I say to the Senator from Massachusetts that maybe he ought to encourage the people in his State to take a look at what the people in the State of Nevada have done for their seniors, because the seniors in Nevada who truly need help, under this plan, are taken care of.

Those who are higher income seniors—by the way, most seniors have their mortgages paid for. Most of them have their cars paid for, compared to young people. That is what a lot of this argument is about. Tell someone who is making $30,000 a year and has a couple of kids that in the future they are going to have to pay a lot higher taxes; they are already paying high taxes now, but in the future they are going to pay higher taxes because of what we are setting up today, especially if the plan the Senator from Massachusetts supports became law. If the plan the Senator from Massachusetts supports became law, taxes in the future are guaranteed to go up, otherwise our Medicare system will be bankrupt.

Part of that is because of what I already talked about. When you take the patient out of any kind of accountability for what they are receiving, costs are going to skyrocket. We have seen that in our health care system today. A lot of the issues about which the Senator from Massachusetts was talking and the charts he was showing with drugs going out of sight is because people are not accountable for what they are getting. Insurance is taking care of it.

Let us look at what we have before us today. Let us do something for those seniors, and I want to give a couple of examples. I want to show you real-life examples of senior citizens with real-life diseases who are paying real dollars out of their pockets for prescription drugs.

The first example I want to use is a guy named James. He is about 68 years old with an income of about $16,000 a year. He is taking these following medications: Glucophage, Glyburide, Neurontin, Protonix, Lescol, and Zoloft, for a total cost of close to $500 a month, $5,700 a year.

Under the three major competing proposals, that person with $16,000 in income, under the plan the Senator from Massachusetts supports, would pay $2,900 a year out of pocket. Under the tripartisan plan, $2,340, and under the Hagel-Ensign plan, $1,923 a year. That is what this person would pay. So this person who is really sick who needs the help the most is actually going to get the benefit they need, but yet will still have some accountability, and that is the balance in the plan that we have done.

We feel this kind of an example is the reason that people should support our plan.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, to correct my colleague and friend, he mentioned $8,000 or $9,000. That falls within 135 percent of poverty. So under our program, they would not be paying any out-of-pocket expenditures.

Mr. ENSIGN. If the Senator will yield.

Mr. KENNEDY. Beyond this, he mentioned his own program in his own State as support. We are representing all the people of all the States. Quite frankly, I do not intend to get into a debate about his program in Nevada, although there are people who have talked about that program. Some of our colleagues who are former insurance commissioners have talked about the history of that particular program.

I do not happen to get into that program. Let me point out my program in the State of Massachusetts. The annual out-of-pocket spending limits for deductibles and copays are $2,000, or 10 percent of income, whichever is less, and everyone over 65 is eligible for it.

This program is better than the Hagel-Ensign program. No one would benefit from that program in Massachusetts. I do not know which States or individuals would benefit and which would not benefit.

We are concerned about all of our seniors. That is what we are trying to address. Even if one State does a little better and one State does worse, we are looking at the challenge which all of our seniors face. I must say that I think I could go to places in Nevada or places in Massachusetts or any State, to find hard working, decent people, who play by the rules and were guaranteed, through Medicare, that their health care would be secure. That is what we said in 1965. No ifs, ands, or buts; it will be guaranteed. But it is not guaranteed, and the principal reason it is not guaranteed is because we do not have prescription drug coverage. That is the reason. We want to try to deal with that.

Thinking you are giving health security to people who have incomes of $9,000 who are going to still have to pay out the $1,500—and people with incomes of $18,000 who will have to pay $3,500—does not measure up. I know the Senator and I differ on that, but it just does not seem to measure up.

We are not talking about a comparison of particular States. We should be trying to look at this generation and what happens to people who move from State to State.

Speaking about the overutilization of health care, the people who overutilize it are the wealthy individuals. Most people who are working 40 hours a week and taking care of their children do not have time to sit in a doctor's office or the resources to pay a copay. I can give study after study that reflects that.

The greatest overutilization of health care and prescription drugs is by wealthy individuals who can take all the time in a day to go to the doctor's office and who have unlimited resources to pay for the prescription drugs.

Five dollars still makes a big difference to people in my State down in New Bedford, Fall River, and Holyoke. They have seen their water bills go up because of the pollution that has been done over a period of years, and this administration has backed out of making the polluters pay and is now shifting that onto the backs of those water users and water rate payers.

They are seeing their fixed incomes dwindling gradually as they pay out and try to deal with those issues. They see the prescription drug costs going up and the Senator is not doing anything. The Senator is not talking about it. The Senator has not even talked about the escalation of costs. What is he going to do about that?

When are we going to see from the other side an amendment that is going to bring prices down? Where is it? We are waiting for it. We have been on this bill for 5 days. We have not had a single amendment from that side to do something about the costs of prescription drugs—not one. We have not had any. We have had complaints and criticisms of efforts that have been made on this side of the aisle to do something about those prescription drugs. Now we are being asked to sign onto a program that will be presented to the people in my State, or the people that could not afford it, to show that we have done something for them. But this program is not as good as the one in my own State. We ought to be dealing with this program for all Americans. That is what a majority of the Senate voted on yesterday, and almost a majority voted for the Republican program. Not trying to take the small numbers of individuals who are paying every single year was universal across the board.

I would ask the Senator, this is not a lifetime expenditure, is it? They are going to have to pay $1,500 this year, $1,500 next year, $1,500 the year after—$1,500, $1,500, $1,500 every single year, or $3,500, $3,500, $3,500. Does anybody believe people on fixed incomes at those levels can afford that kind of expenditure? They cannot.

So I hope we keep our sights higher in terms of trying to meet the challenges and needs of our people.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Madam President, I ask that I be notified when I have spoken for 5 minutes.

The PRESIDING OFFICER. The Senator will be so notified.

Mr. HAGEL. Madam President, I want to cover some areas of concern and questions that have been addressed, appropriately so, regarding the amendment, but let me generally make a comment in response to my friend from Massachusetts.

One of the results the distinguished senior Senator from Massachusetts is not factoring in in our amendment is the discount that all Medicare beneficiaries would derive. The estimates of

those discounts, which are real, which, in fact, are in existence now, those discount card programs, are anywhere from 25 to 40 percent. That is one piece of this that has not been addressed, and it is important to factor that back in. That is but one part of our complete prescription drug program. Obviously, another part is the catastrophic cap.

I have been asked about pharmacies and how this legislation might affect pharmacies, because, as the Senator knows, we do not invent a new bureaucracy. I am sorry to have to say that again to some people who like big government, who think big is better, and the more money we throw at anything always makes everything better. That is aside from the debate about deficits in this country, which I hear an awful lot about in this body, about irresponsible spending.

We do have to ask a question about the affordability. That may be painful for some of my colleagues but, in fact, that is reality. This program is not just about addressing what we must address—and the senior Senator from Massachusetts is exactly right; we need to address this. For too long we have deferred it. It is not just about addressing the problem.

The other end of that is, who pays for the program? Who eventually is going to wind up paying the bill for the program? We have tried to develop a program that focuses on those who need it most.

I know most people would like to have a program where they pay nothing; let somebody pay for it all. Well, that is not a bad life, I suppose, but the reality is someone is going to pay for this. When we look at the huge numbers that we are dealing with in this country today on entitlement programs, everybody better stop for a moment and think through the consequences of what we are doing. There is a consequence to whatever action we take, and the consequence is going to be on the next generation and the next generation, as we add a new entitlement program to Medicare.

We need to do this, but it must be done in some way that is responsible and accountable for those who now have no say in it but we are saddling them with this burden. We cannot just merrily skip along and say, well, we have given you everything free, aren't we great, let's send out a press release out and hold a press conference: oh, Senator HAGEL, you are so good to us.

I have a 9-year-old and an 11-year-old. Many of my colleagues have children and grandchildren. They are the ones who will pay. When we look at the numbers—Senator GRAMM was on the floor yesterday, talking about those numbers—they are significant. With a $2 trillion Federal budget today in this country, about two-thirds is consumed by entitlement programs. We cannot do anything about that. The growth path we are on, even if we do not add any new programs, is immense. I don't know how we are going to ask this next generation and the generation after that to carry that burden. Something will happen. The choices are either that you cut benefits at some point or you continue to raise taxes on the workers, the young people, to pay for my drugs.

We have tried to accomplish some center of gravity, some responsible balance in addressing the problem. It is real. We need to address it but at the same time address the consequences. Who pays? That is the painful part of this process. Who pays? We don't like to talk about that.

When I talk about using a market system in place, not developing or building a new Government program, what do I mean? I mean using the market system in place. It is imperfect. Absolutely. But it is the market system in place today that has given America this remarkable lifestyle, quality of life, longevity. Imperfect and flawed? Absolutely. Are there people who do not benefit from some of this because they are at the bottom? Absolutely; that is what we are trying to deal with. But do not destroy the system that has produced this remarkable quality of life. Why would we throw out a market system that works pretty well?

We use the existing structure in place: Pharmacies, pharmacy benefit managers, insurance policies, systems, programs, administrators to administer the program at the direction of the Secretary of Health and Human Services. Pharmacies are a big part of this. They must be a big part of it. In this system, we have worked with the pharmacist. We preserve that beneficiary/pharmacy relationship. Seniors and other Medicare beneficiaries will continue to get most of their drugs at the pharmacy.

Any proposal that seriously disrupts that relationship would not work for Medicare beneficiaries. I point this out because beneficiaries' relationships with pharmacies will be strengthened. A system such as this could not work without bringing in the pharmacies. There will be a greater emphasis on discounts provided by pharmaceuticals and manufacturers than the pharmacy discounts. It is the pharmaceutical companies that provide the discounts. Those are negotiated by the private plans at the direction of the Secretary.

Pharmacies would be free to choose whether or not to participate. It would be voluntary. Right now, pharmacies are involved in many of these discount drug plans. They do well. It brings in traffic. They have consulting fees. They are a big part of the process. Our bill would make them more a part of a process.

Our legislation prohibits mail-order-only programs; therefore, it does not eliminate pharmacists. That is an option. Pharmacies could directly compete as administering entities. Pharmacies, as some pharmacies do today, could administer these programs. I make this point because there have been questions raised about the role of pharmacies. I understand that. We have spent a lot of time listening to pharmacists from all over the country. I understand their concern. The way we have crafted this, it would enhance the pharmacists.

I yield the floor to my colleague from Nevada for 3 minutes.

Mr. ENSIGN. Madam President, I will address a couple of matters the Senator from Massachusetts talked about. First of all, the Senator said the plan in Massachusetts was more generous than this plan. It is a different plan in that it is a first-dollar coverage plan. I don't know if the numbers have been updated, but according to the report from the GAO, in Massachusetts, if you are 150 percent of poverty or below, you are covered up to a maximum out of pocket of $1,250. That is according to this report.

The bottom line is the difference is Massachusetts covers the first dollars, but it caps the amount that Massachusetts will pay. Our plan caps the amount the seniors will pay. That is the difference. If they want to do first-dollar coverage in Massachusetts—and that is what we do in the State of Nevada—that is up to the State. What we want to do is say to the seniors, you will have the amount capped that you can actually pay out of your pocket so you don't end up going into poverty.

Why didn't the State of Massachusetts make a more generous benefit? They only did it up to 150 percent of poverty. Why? Are people making more than $12,000 a year rich? Can they afford some of the outrageous drug costs? Of course they cannot. The reason they did that is because that is all the State of Massachusetts believed they could afford at the time.

Do what you can with the money you have. The Federal Government is not unlimited in its resources. We have to be fiscally responsible to the next generation.

Yesterday the amendment that the Senator from Massachusetts supported was outlandish. It would bankrupt this country and bankrupt Medicare. I believe it was irresponsible in the long run to the next generation. This bill we present today is responsible, but it provides the coverage seniors really need. When you combine it with the help the States are giving, those low-income seniors, those sad stories we have heard, those people are truly going to be helped.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. Thirty-two minutes.

Mr. KENNEDY. Madam President, first of all, I ask my good friend from Nevada to get current with regard to the Massachusetts plan. I will try and get current with regard to his if he gets current with regard to ours.

Massachusetts residences not on Medicaid, 65 or older, are eligible.

Every one is eligible. The annual out-of-pocket spending for deductible and copay is limited to $2,000 or 10 percent, whichever is less for individuals.

It is a good deal different from what the Senator described.

I am not here to offer this as an amendment. Some States do a little better than other States. Massachusetts is clearly a good deal better than what we are being offered with the amendment of Senator HAGEL and Senator ENSIGN. Senator HAGEL has pointed out the real problem is the issue of cost. Now we have cut to the bone. There are a lot of costly programs. Medicare is costly. Yet this country made the decision that for our elderly, who was going to try to offset the cost for frail elderly men and women who worked hard all during their lives? Would it be the individuals who will have an average income of $13,000, and two-thirds below $25,000, or are we going to recognize that as a nation we are going to provide help and assistance?

We made the judgment and decision that we would do that as a country. We did the same on Social Security. Many believe we ought to do it on prescription drugs. My good friends do not believe so.

What are we asking? There was a comment that some of the elderly are asking for something for nothing. Who are these people? They are parents, people who took care of everyone in this room. Asking for nothing? These are the people who fought in the wars. They are the frail elderly, asking for nothing, who have sacrificed for this country, sacrificed for their children, sacrifice, sacrifice, sacrifice. And they are accused in the Senate of trying to get away with something for nothing.

Are you asking them to give up going to the movies once in a while? Or taking their grandchildren out to dinner once in a while? How much can you squeeze from someone with a $9,000 income? How much can you squeeze them?

Defend the market system. Defend the market system. Defend the market system. Prescription drug companies are violating the market system by jiggling the patent system so that there cannot be competition.

Why aren't we hearing something about the market system over there on the underlying amendment? No, we don't hear anything about that. We just hear something about the frail elderly trying to get something for nothing.

What about States being able to use the power of all their people to try to get a better drug price? That is the market system. We don't hear anything about that. No, no, we don't hear about that. We just hear about these frail elderly, all these greedy elderly senior citizens who are trying to rip off the system. Come on. That is the heart of the Republican program. You just heard it out here.

That is what this decision is about. It is priorities, whether you want to have a massive tax cut that is going to go to the wealthy, or do we as a country and society put the value of our senior citizens ahead of that. It is a value issue. And I believe it is a moral issue as well, as long as we can do something about it and help these senior citizens. That is what the issue is about. We just heard it. We just heard it.

Somehow, we are against the market system when we are trying to stop the kind of violations of patents to let competition get in? We are in violation of the market system when we are trying to let States get better deals for their fellow citizens? We are against the market system?

Senator, that is just wrong. I do not know how much more we can do in terms of our senior citizens; how much more we can squeeze them; how much more, when they are paying out that 15 percent, 18 percent, 20 percent of their income every single year, watching their total life savings go right on down. How much more can we squeeze them so we can give tax breaks for the wealthiest individuals, who have had the greatest profitability over the period of recent years? How much more can we squeeze these men and women who have built the country, suffered, and done such an extraordinary job?

This country has been built by our parents and our grandparents. If it is a great country, and it is, it is because of them. They are the ones who are frail. They are the ones who need the help and assistance. And I reject the fact that we are trying to speak of them as individuals who are trying to rip off the system and get something for nothing. That is not what this debate is about, and it should not be.

I yield 10 minutes to the Senator from New York.

Mr. SCHUMER. I came after the Senator from North Dakota so, if it is OK, I will take my 10 minutes after him.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I joined my colleague earlier on the third floor of the Capitol at a press conference to talk about the generic bill. That bill is very important and one about which I have held a hearing.

In terms of prescription drugs, we need to do two things that are important. We need to have a prescription drug benefit, and we need to do something that puts some downward pressure on prescription drug prices. We must find a way to put a prescription drug plan in the Medicare Program, one that works, works for all beneficiaries, and provides them with the ability to access the medicine they need when they need it.

I said earlier that there is nothing lifesaving about drugs if you cannot afford them. There are no miracles in miracle drugs if you can't afford them.

I just heard my colleague talk about those people who helped build this country. Tom Brokaw's book described some of them who went to war in the Second World War as ''the greatest generation.''

I had a fellow come to a meeting a while back, who is a member of the greatest generation. He served in the Air Corps in the Second World War. He was in his late seventies and he needed new teeth and didn't have any money for them.

I arranged for a dentist and I also helped him get some teeth. Here is a fellow who fought in the Second World War, who ends up with nothing, who needs a new set of teeth and has to come nearly begging people to help him get his new teeth.

Senator KENNEDY is right. We have a lot of people in this country who have needs. They reach their declining income years, their retirement years, and they discover the things they need such as new teeth or prescription drugs, cost a fortune.

Senior citizens are 12 percent of America's population and they consume one-third of all prescription drugs. Is it because they want to be sick? Is it because they like to take prescription drugs? I think not.

You meet them at town meetings and various locations around the State, and they come up to you and say: You know, Mr. Senator, I am 80 years old and I have diabetes. I have heart trouble. I have to take seven different prescription medicines. Mr. Senator, I can't afford it. I don't have the money. I wish I didn't have to take the drugs, but I need them and can't afford them.

A doctor in Dickensin, ND, told me one day about a cancer patient who had breast cancer, a senior citizen. After the surgical removal of her breast he told her about the drugs she was going to have to take to try to minimize the chance of recurrence of her cancer.

He said she looked at me and said: Doctor, what will these prescription drugs cost? And when he told her what they would cost, she said: Doctor, I couldn't possibly afford those prescription drugs. I don't have the money. I'll just have to take my chances. I'll just have to take my chances.

We can do better than that. We need to put a prescription drug plan in the Medicare Program, one that works—one that really works. At the same time as we do that, it has to be complemented by a couple of other provisions we—the generic bill offered by my colleague, Senator SCHUMER and the Canadian reimportation bill, both of which will put downward pressure on prices. If we do not do that, we just break the bank. I am not interested in breaking the bank, hooking a hose up to the tank and just sucking all the money out. We can't do that. I am interested in making sure we have a prescription drug benefit plan that works. No, not some sliver of a plan, that says to a poor person: By the way, spend a lot of your money first, and then we'll give you a little help.

No. 1, let's have a plan that works; No. 2, a plan that includes in it downward pressure on prices, not just for

senior citizens but for all Americans. That is why this is so important.

I imagine some members of this body could come up with a dozen reasons not to do this. In fact, the negative side of the debate is always the easiest. I think it was Mark Twain who was asked if he would engage in a debate of some sort. He said: Of course, as long as I can take the negative side.

When it was pointed out to him that he hadn't been told the subject of the debate, he said: It doesn't matter. The negative side takes no preparation.

It is easy to take the negative side. It is much more difficult to come up with a positive approach. That is what we are trying to do here. Yesterday, 52 Senators in a very important vote, for the first time in over 40 years, said we would like to put a prescription drug benefit in the Medicare Program. Fifty-two Senators said that. It takes 60 votes.

The question now is, Will the minority of the Senate block it in the next couple of days? The answer is, I hope not. I hope all Members of the Senate understand this is not just some run-of-the-mill issue. This is not just some issue of convenience. This is life or death issue for those who have reached their declining income years. Those who in many cases are living in or near poverty and who are told by their doctor they must take five or seven different kinds of prescription drugs. And they do not have the ability to pay for those drugs. That is why this issue is important.

Let's do this and let's do it right. Let's not take slivers of policy here or there and pretend that we have constructed something meaningful. Let's put a real plan together, one that adds up, one that makes sense, and one that provides real benefits.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. SCHUMER. I thank my colleague. He spoke so poignantly of the doctor in Dickinsin and the senior citizen who had breast cancer and could not afford the drugs.

Again, I appreciate the approach that my colleagues from Nebraska and Nevada have taken. It is an honest approach, but it is a minimalist approach. It is based on the theory that we do not have enough money to do more, even though 52 people in the Senate voted to do significantly more.

I would just ask my colleague this: Isn't this part of the same budget where they take $600 billion over 10 years to reduce the estate tax? Isn't it true that estate tax reduction does not go to people whose income is $17,000 or $35,000 or $350,000, but to people whose estates will eventually rise, I believe it is, to $2 million or $4 million? That is a minimum amount. This is not an abstract discussion.

I ask my colleague if I am right. Do you want to give somebody who is a millionaire, who has an estate worth over $2 million, a total exemption from any tax and deprive patients in North Dakota their desperately needed medicine? It isn't either/or. In my judgment, it is not that we can't afford it. If tomorrow the President and his budget friends on the other side in their budget say we are not going to make the estate tax reduction permanent, there would be more than enough money to afford the plan that we voted for on the floor yesterday.

Am I wrong? Is this a question of choices? This is not simply an abstract discussion about how much we should spend. My colleagues on the other side of the aisle have said they would like to do more, but we can't afford it. But, all of a sudden, when it comes to estates of $10 million, $20 million, $100 million, or $1 billion, that should come ahead of the senior citizen about whom the doctor in Dickensin talked. And we have thousands—tens of thousands—of the same people in New York—poor senior citizens who are struggling and don't have the money for their desperately needed medicine.

Mr. DORGAN. Mr. President, the Senator from New York is certainly correct.

One-hundred years from now we will all be gone. Everyone in this room will be dead. And historians will look at the choices we made in terms of our values and systems and evaluate what we thought was important.

My colleague Senator FEINGOLD offered an amendment on the estate tax which said, let us have an estate tax and we will exempt everybody under $100 million. The only estates that will bear a tax will be those above $100 million.

That lost, because some here believe that the estate tax must be abolished for everybody—even those at the top who are billionaires. Good for them and their success. But I happen to think that when they die part of their wealth should be used to help deal with some of our other needs.

The point is, as the Senator from New York pointed out, we are forced to make choices. What is important? What are the right choices for our country? People are living longer and living better. It is not unusual to find 80-year-olds. My uncle is 81 years old. He runs 400s and 800s in the Senior Olympics. He has 43 gold medals. It is not unusual to see people living longer in our country but not all of them are as healthy as my uncle. Most of the elderly need prescription drugs to deal with medical conditions. And many of them don't have enough income or assets to pay for them. They simply don't have the means to purchase them.

If we were writing a Medicare bill today, there is no question that we would have a prescription drug benefit in that bill. It would be a benefit that works—one that is thoughtful, reasonable, and helps all senior citizens. That is what we ought to pass. It is not acceptable, in my judgment, just to grab slivers here and slivers there, and say, oh, by the way, we can't afford much because we decided we wanted to have other things such as an estate tax repeal for the largest estates in the country.

These are choices that we have to make. I believe we must make the right choices today and tomorrow as we go about our business on behalf of senior citizens and all Americans.

The PRESIDING OFFICER. Who yields time?

The Senator from Nebraska.

Mr. HAGEL. Mr. President, I yield to my friend and colleague from New Mexico 10 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, fellow Senators, first, I thank the Senator from Nebraska for yielding time. Second, I compliment him and the senior Senator from Nevada for offering this proposal which gives us a chance to do something very significant for our senior citizens.

Let me go back and trace a little bit of modern history so everybody will know what caused the predicament we are in and why we can't do much more than this for our seniors at this point in time.

First, the last budget resolution that passed was a budget resolution when we were in control by one or two votes. That budget resolution provided for a reform of Medicare and a prescription drug benefit that did not cost more than $300 billion over 10 years. We didn't use that because the history has it that the last President got in a very big argument with a bipartisan committee and told them to vote with him and out the window went a bipartisan reform bill. It went, because the last President—President Clinton—wanted Medicare reform, but only his, even though he had appointed a commission.

There is one. Chalk that one up. Who is responsible for that one? President Clinton, without a doubt.

Now comes the time when we are supposed to pass a budget resolution. The last time I heard it was the responsibility of the majority party to report one out and to take one up on the floor. They didn't have to report it out but to take it up and do the business of the Senate by passing a budget resolution.

What happened in the middle of all this was that a Senator left our side of the aisle and joined their side of the aisle for votes and they became responsible for passing a budget resolution.

For the first time, since we had a Budget Act 27 years, we are operating without a budget. We are operating without a new budget that suggests how much money the Senate wants to spend in the next 10 years on prescription drugs. There is no current budget that says that. If they would have put one in place, guess what. It would only require 51 votes. That is not our fault. That is their fault. They did not do it. Consequently, 60 votes are required to get the seniors of America a Medicare bill.

I am not sure that some people think that is good and others think that is

bad. I am just stating the facts. That is the reason 60 votes are required. The seniors ought to know that.

That is not the Republicans. That is not our President. That is the Democratic leadership here which said, That budget is getting too tough, let us just not do one.

I did 27 in my life; 12 of them as the chairman when we had to produce them. We always produced them. Believe you me, they were tough. Some took 2 weeks. Some took 80 votes. One time we did 37 votes in a row with Howard Baker sitting right at that table, all of which we had to win and all of which we had to fight for, because under the old rules you could offer almost anything.

Here we come at the end of the year and the leadership on that side of the aisle promises a Medicare bill for the seniors of America, but they cannot pass one because they did not do a budget. Therefore, 60 votes are required—not 51.

I repeat: That is not the Republicans' fault. It is not the President's fault.

I can vividly recall some leading Democrats when they were asked, Why aren't we doing a budget resolution? Oh, well, one of them said, It is too hard this year. Maybe we don't need one. Now here is where we are as a result of that.

I compliment the two Senators. They have a third Senator. I am very lucky. I joined them yesterday. I am a cosponsor of theirs.

Frankly, I went with the tripartisan bill yesterday. If that had passed, we would be finished. But it didn't pass because it only got 48 votes, or 47. It needs 60. That is a pretty good chunk of votes, however, to get you started.

What do I say? I look at all of this and I ask, Is there anybody who has an amendment that does not require 60 votes and still will do something good for the seniors? This amendment will not exceed $300 billion. I do not know the number exactly, but I am going to guess with you that it is between $285 billion, $290 billion, or $295 billion. So this amendment clearly only needs 51 votes. If you want to give the seniors something, 51 votes is all that is necessary.

From what I can tell, it is a very good approach to get the seniors something this year. It will take care of the seniors who are in the biggest trouble with expensive drug bills. For those who have expensive drug bills now, it will take care of them and all of the people who are poor under anyone's definition of poverty. It will take care of them.

What is wrong with that? About $295 billion, or $280 billion—just what the budget resolution said you ought to spend on the whole program just 18 months ago.

I thank the Senators for what I think is a rather ingenious bill. I don't think it carries with it any acrimony. If the Democrats don't want any bill at all, they can look right there to the seniors and say this is what they are going to get.

The Hagel amendment does not have a 60-vote requirement in terms of cost because it comes in under the cost. However, it was not produced by the Finance Committee because they were not permitted to produce any bill. So it probably needs 60 votes.

Clearly, if we have the sufficient votes to adopt this, there would be some way of getting it back to committee, and getting it out of there.

I urge a vote for it because there is a real chance we will send the right signal, and set before us a way to get a bill this year.

I thank the Senator, again, for yielding. And I thank the Senate for listening. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SCHUMER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I want to address further this proposal before us. I was glad my colleague from New Mexico finally mentioned that it would take 60 votes. So we are dealing with 60 votes, and 60 votes, and 60 votes, because of the variety of the very technical, detailed, and sometimes tortuous reasons for the Senate rules, which have a wisdom to them way beyond my ken. But I would like to make a couple points.

First, I would add to the RECORD, if it has not been added already, the CBO estimate of the Hagel-Ensign amendment. I think last night we were talking about $160 billion. Now CBO—and the Senator from New Mexico has stated it correctly—estimates this bill costs $294.7 billion. However, if the Schumer-McCain bill were added to it, it would reduce the cost by $13 billion to $284 billion. That is within the budget resolution. My friend from New Mexico is exactly correct.

It is also $130 billion more than we were talking about last night. With that money, the close to $300 billion, I just want to remind my colleagues of who it covers and who it does not cover.

Again, a senior citizen, poor, with an income of $9,000, would have to first pay $1,500 before they would get a nickel from this bill. I will tell you, $9,000 does not buy much. It buys even less in New York than it would buy in Nebraska or in Nevada, but it does not buy much anywhere—and to ask that person to have to pay $1,500 first?

This amendment does nothing to take away the conundrum that poor senior citizens have: prescription medicines, wonderful drugs that they desperately need, or an adequate meal on the table, a plane ticket to see the grandchildren maybe at Christmastime, whom they have not seen in 3 or 4 years. This amendment does nothing to relieve that burden.

A senior citizen making $18,000 now—that is not a poor senior citizen, but it sure as heck isn't a rich one—would have to pay $3,500 before they got a nickel from this action. That is enormous. That is a huge burden to them. Yet we are spending $300 billion for that.

I remember when we dealt with prescription drugs a couple years ago, and there was a general conclusion that if you are going to do this, do it right, really help people, do not bite around the edges. And this proposal does just that.

And then let's go to a senior citizen who is doing OK. They have a $35,000 income. They are almost never going to get benefits. They have an income of $35,000, and they would have to first spend $5,500 on their prescription drugs before they would get a nickel from the amendment.

I think I know what is going on here. There is a demand that we do something. Everyone wants to say: I am for a bill. I would bet my bottom dollar, if you could get 280 million Americans in an auditorium, if you could get the—how many senior citizens do we have in America? About 40 million, 45 million. If you could get every senior citizen in an auditorium and ask, for $300 billion, should we adopt an amendment that helps so few, they would say: No. Go back. Do it better.

And then again my colleagues will say—I will make the point again because it just gnaws at me—we don't have the money to do more.

The Senator from New Mexico, my good friend, knows the budget, studies it. He is almost a priest of the budget, God bless him. He says: We don't have a budget.

I will tell you why we don't have a budget. It is because of the insistence of the other side and the White House that we continue the tax cuts for the very wealthy, that we can't afford in the President's budget proposal—I repeat, $670 billion to eliminate the estate tax. Many of my same colleagues who are supporting this proposal were on the floor talking about how that is important.

Go ask those 40 million senior citizens. Go ask the 280 million Americans do they want a better benefit than the very measly benefits in this amendment or do they want the estate tax repealed. When? Right now, if your estate is in the millions of dollars, it is taxed, but if it is below that, you are not taxed.

Ask them if they want us to say, let's say anyone with $20 million should pay an estate tax, and we would get a lot more benefits in the bill.

So whom are we kidding? We know there is enough money to do this, if we want to. But if we are going to play trickle down, if we are going to say, first, let's reduce the estate tax, and then work in the confines of that, and provide some dribbles to the senior citizens, to the lady in Dickinson who has breast cancer and cannot afford the drugs. Whom are we kidding?

Where would 90 percent of the American people be? If the cupboard were

bare, if we had no dollars for anything else, if we needed it all for our war effort or for Social Security, maybe we would have to come up with this amendment.

But when we hear the priorities of the other side are tax cuts, particularly the estate tax cut, first, and then whatever is left over we will sort of craft into a plan that makes someone whose income is $9,000 pay $1,500 first before they get a nickel from the benefit, whom are we fooling?

So the whole argument that I have heard from my good friends from Nebraska, Nevada, and others is: We don't have enough money to do more. This is fiscally responsible. Is it fiscally responsible, then, to call for $600 billion in cutting the estate tax? And that, of course, is eliminated—I need to get the right number. I know we go up to $2 million or $4 million per estate, but I think right now it is somewhere between $1 million and $2 million where estates are eliminated.

Whom are we kidding? We all have priorities. We have a Senate because not everyone has the same priorities. We have a House of Representatives for the same reason. And our priorities are different. But admit the truth. It is not that we do not have the money to do better, it is that people have other priorities.

I will tell you where the priorities of the senior Senator from New York are. They are for a plan that got 52 votes on the floor of the Senate yesterday above cutting the estate tax for the very wealthy. How many of you will join us in saying that? I doubt very many. And if not, then the underpinning of the argument that we can't do better is false.

We can do better. We can pass a better bill, by rearranging our priorities, and telling that senior citizen who makes $9,000, you don't have to wait until you spend $1,500 before you get a benefit; telling the senior citizen who makes $18,000, you don't have to wait until you spend $3,500 before you get a benefit.

If this were an honest debate about priorities, then there would not be a need for the minimalist plan that my colleagues have offered.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Mr. President, I yield my colleague from Nevada 1 minute.

Mr. ENSIGN. Mr. President, I want to clear up a couple points the Senator from New York talked about. He said no benefit for somebody until they pay out-of-pocket expenses. He forgets the drug discount card which will save seniors somewhere from 20 up to 40 percent because of volume buying. So they immediately benefit, anybody who signs up for the plan.

Our plan fits really well—I talked about this before—with those State plans that are already out there. The State of Nevada has a great plan using tobacco money. Other plans in States work very well with our plan. Those seniors who need help the most will get the help under this plan.

Let's be honest about this plan. It is fiscally responsible to the next generation but also truly does get the help to the seniors who need it today.

Mr. HAGEL. Mr. President, I yield 6 minutes to the senior Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleagues from Nebraska and Nevada for bringing to the floor what is a valuable piece of legislation to address the issue of prescription drugs.

As chairman of the Republican Policy Committee, I had not engaged in this debate on the floor from the time it began several days ago largely because, while it is a phenomenally important debate, it was a play, a drama to be acted out and ultimately to close with no result. That does not mean that those who come to the floor, such as my colleagues from Nebraska and Nevada, to put forth a substantive piece of legislation aren't well meaning. It does not mean that at all. It means that the majority leader of the Senate set up this play with the purpose of never accomplishing anything in the end but to allow those who wish to make a political statement and to shape themselves for the November election to have that opportunity.

That in itself is a tragedy in the formation of public policy. It allows those to come to the floor and talk about all kinds of other things except that which is very meaningful; that is, a good prescription drug program for the seniors of America.

If this bill had been formed by the Finance Committee in a bipartisan manner, it would be on the floor. It would receive a majority vote, it would be in conference with the House to work out our differences, and the seniors of America would have a drug prescription policy. That is not a statement of myth; that is a statement of fact. It would not be a drama; it would not be a play with all the characters hustling down to the curtain call; it would in fact be an action of positive legislative effort to produce a bill.

The Senator from New York has talked about tax cuts. My goodness, what he has suggested is die and take everybody's money and put it into a social welfare program. No, sir, not on my watch. You bet the Senator from New York and the Senator from Idaho are different people, coming from different States. I don't believe in that.

Mr. SCHUMER. Will my colleague yield?

Mr. CRAIG. I will not yield at this time. I do believe that people who work hard all their life and build an estate ought to have a right to take a little of it, because it is after tax money that builds an estate, and they want to pass it on to their children. That is right. That is reasonable. We call it the American dream. I don't think we ought to step back in and swoop it up for the Government to spend, all in the name of a social welfare state. That is wrong. It is fundamentally un-American.

Debate it, if you wish. The reality is, use that as an excuse. That is law today. It is only an excuse not to have to face the reality of why we are here and not getting anything done.

The reality of why we are not getting anything done is that the majority leader would not allow the chairman of the Finance Committee to do what he should have done at a very important time in American history, at a time when pharmaceutical drugs have become a part of the American health care culture. The seniors of America who are living longer and healthier today are finding that a very important part of their lifestyle. Medicare doesn't address that issue.

The Senator from New York and the Senator from North Dakota said it right: If we were writing a Medicare Program today, prescription drugs would be in it. It would be in it, and I would vote for it, and they would.

At the same time, we are not going to cram in a proposal that costs hundreds of billions of dollars, to the tune of $700 or $800 billion, doesn't take effect until 2004, terminates in 2008 or 2009, and call that something we want to take home and say: Look what we have done for you.

Why not something that our country can afford, that our seniors will find a reliable approach toward acquiring the necessary pharmaceutical drugs to deal with their health care in a way that will not break them? That is not going to be allowed to happen in the Senate in the 107th Congress.

There are 40 million-plus seniors. Put them all in one room and ask them this question: Do you want a pharmaceutical drug program now? The answer is: Yes, we do. We want it now, not 2004. No, we don't want it to terminate in 2008. Most importantly, we don't want it to bankrupt our country. Yes, we would pay a small deductible and, yes, we would even pay a small premium because a small deductible of maybe $100 a month to pay for a $400 drug bill is a right and reasonable thing to ask.

The Senator from Nevada put it well when he said there are State programs—that wasn't counted—that can offset the truly needy. And there are many. Those who have little to no money—and there are many seniors in this position—could have full access. It wouldn't have to come through the Medicare Program or, I should say, the Medicaid Program that oftentimes is administered by the State.

The PRESIDING OFFICER. The Senator has used his time.

Mr. CRAIG. I ask for 1 more minute.

Mr. HAGEL. I yield 1 minute to the Senator from Idaho.

Mr. CRAIG. I thank the Senators from Nebraska and Nevada for bringing a realistic amendment to the floor, one that could take effect now, one with

which we could go home to New York or Idaho and say to our seniors: We have cut your drug bills well over a half or two-thirds. You have it now, not wishes 4 years from now, not wishes 3 years from now, a program that won't bankrupt the country and won't demand that those who have saved and earned all their life have to give up their estates so that you can live well.

That is not what this country ought to be about. More importantly, that is not what this debate ought to be about. It ought to be about a substantive, affordable program that truly allows America to say to its seniors: We have changed the dynamics of health care from a 30-year-old model to a modern model that allows pharmaceutical drugs to be affordable, to be fitted into the program.

I strongly support the effort of my colleagues from Nebraska and Nevada.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I will speak for a minute. I want to make some comments to my friend from Idaho. He keeps talking about, we are going to take everybody's money. No, we are not going to take everybody's money in the estate tax. We are not even taking most people's money. We are not even taking 5 percent, the wealthiest 5 percent of people's money. We are taking only from people who have estates certainly over $1 million and probably somewhat more than that.

That is how this debate often gets off track. We are not saying to the plumber who built up a little business: We are taking your money. We are not saying to the steelworker who has a pension: We are taking your money.

Yes, we are saying to the very wealthiest: God bless America, you have made a great living, you have lived well. Are you willing, in this social compact we call America, to tell the senior citizen who can't afford to pay for these drugs, and it is life or death, that you have to keep it all—and not even keep it all, pass it all on to your heirs?

That is the issue. It is not everybody. It is not half of the people. It is not a quarter of the people. It is not 5 percent of the people. What is driving the estate tax is the very wealthiest people in America who somehow have won over the other side. But they never talk about them. They say ''everybody's'' money. Not so. Then the other side of what my good friend said—he said take everybody's money and put it in a social welfare program. The definition of what my friend said, the Hagel-Ensign amendment, is a social welfare program. Social Security is a social welfare program. Medicare is a social welfare program.

Yes, in America, we believe in those things. Back in the 1870s, we did not. The life expectancy was 40 years; one out of every four children died in childbirth; people lived in slums, tenements; farmers went bankrupt every year. Yes, America has changed, and it is not a country that should be run exclusively for the wealthiest people and you give the crumbs to the others. We learned that in the 1890s, in 1912, and in the 1930s. We learned it in the 1960s, and we have learned it since then.

So I reiterate my point. It is a choice of priorities. In this context, yes, you are right, as long as there is a budget deadlock—primarily because we would not go along with reducing taxes even further on the very wealthiest Americans while doing nothing for the middle class—we don't have enough to do a prescription drug bill in the right way. We are left debating whether we should do one that the vast majority of Americans would agree doesn't solve their problems.

So, yes, I regret that the debate has come to this. I don't think it is where the American people are. I think they are much more on the side of the bill that got 52 votes yesterday. But because of the rules of the Senate and, more importantly, because we don't have enough Senators who have the priorities I am enunciating, we will not get that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I yield to the Senator from Pennsylvania 1 minute.

Mr. SANTORUM. Mr. President, I thank Senators HAGEL, ENSIGN, and GRAMM. They have put forth a plan that focuses in on exactly the problem most Americans understand, which is that we have people who have a high cost of drugs but simply don't have the ability to afford them. They have to make difficult decisions about how to provide for themselves as well as provide the medicine they need.

Secondly, they provide a focused attempt to help the lower income people, who may not have that high of a drug cost, but even with a small amount of the prescription drugs they need, they don't have the resources to pay for them. This is a commonsense approach. This is a focused approach. This is a good first step. It gets us very far down the playing field.

To me, it is a little bit frustrating to see a proposal that makes so much common sense, is within the budget framework that has been worked out, and we find opposition to going way down the field in a proper direction. Some will say no because it doesn't give us everything we want, it doesn't get us the whole loaf, and somehow that is not good enough.

This is a very solid proposal. I think it is something that should have very strong bipartisan support.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I yield 3 minutes to the senior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank our dear colleague from Nebraska for his leadership on this issue. I think the best proposal that has been presented to the Senate is the Hagel-Ensign proposal. It is the only proposal that is rational. It is the only proposal that is organized in such a way as to give most of the help to the people who need it the most. It is the only proposal that is affordable.

My strong suggestion and my recommendation to my colleagues is that we adopt this proposal. This proposal basically says if you have a moderate income and you have high drug bills, you are going to receive assistance from Medicare. A simple guideline is that if you have a family income, in retirement, of less than $23,000 a year, if this bill goes into effect, you will spend only slightly more than $100 a month on pharmaceuticals before you receive assistance. The amount that people would have to spend before they hit the critical level where they would receive assistance rises with people's incomes, so that at $46,000, you would have to spend $3,500, or about $300 a month; at $69,000 of income, that amount would be $5,500.

So what does this do? It does two things. Immediately, it provides assistance by setting up a program whereby we can use the ability to negotiate prices. Medicare does not buy competitively. It is estimated that by allowing people to choose among selections that will be available through Medicare and by utilizing a purchasing cooperative, whereby they will enter into an agreement with private companies to purchase their pharmaceuticals and find the cheapest price for them, every senior will save between 25 percent and 40 percent on their drug bills. That benefit will start immediately—not in 2004 as the Democrat alternative does, not in 2005 as the tripartisan alternative does, but upon adoption. The other parts of this bill will go into effect as of January 1, 2004.

So this bill helps everybody now, brings efficiency in purchasing health care for every senior, and provides assistance to people who need it the most. I urge my colleagues to vote for this amendment.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I yield myself 2 minutes.

Mr. President, I have heard about the generosity of this plan. Well, I think we all can admit it is the least generous plan on the floor. Any plan that tells someone making $9,000 that they have to spend $1,500 first, I don't think most people would call generous. I would say any plan that says to someone making $18,000 that you have to spend $3,500 before you get a nickel is not a generous plan. Again, if that were the best we could do, fine. But it is not. We here on this floor are not in sync with the American people's priorities.

Go back to the issue I have been bringing up this last hour, the estate

tax—$670 billion to repeal the estate tax only for estates of over $1 million or even more. Most of that money comes from estates of $50 million. Are you going to tell that person, you get your tax cut, or are you going to tell our senior citizens, you don't have to spend $1,500 of your $9,000 income before you get a bit of benefit?

My colleagues, again, this is a question of choices. We can say that we will keep the status quo, that we will continue the tax cuts on the wealthiest of Americans. All things being equal, I would like to get rid of the estate tax. But if telling the senior citizens of New York State that they don't get a benefit before we take the taxes of people making $50 million down a few more notches, you know what side I am on. I ask my colleagues which side they are on.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Mr. President, I yield 6 minutes to the Senator from Nevada.

Mr. ENSIGN. Mr. President, we are coming to the close of this debate. A couple of things need to be cleared up. There has been talk about the estate tax versus prescription drugs. Medicare is a program that is paid for out of the payroll tax. It has always been that way. Hopefully, it will always be that way. Payroll taxes pay for Medicare.

Our amendment, we believe, is responsible. The difference between our bill is that the seniors pay their first dollar out of pocket for coverage. The other bills, the seniors pay a portion of the first dollar out of pocket. The reason for that is we thought it was important to keep the senior in the accountability loop. I mentioned that earlier in the debate, but it needs to be reemphasized.

When seniors or any other patients in health care do not have to think about the financial aspects of their care, whether it is in purchasing drugs or in getting their health care, if they are only paying a small portion, they do not even think about that. But if they are paying the first dollars—and in our plan, if they have up to $17,700 in income, they will pay out of pocket $1,500—they are going to think about prescription drugs. This is about $120 a month.

Seniors with whom I have talked literally would jump at knowing they would be limited to about $120 a month for prescription drugs. They just do not want to be bankrupt. They do not want to think they are going to lose their house. Many are concerned about long-term care, and that is their biggest fear—that they have to lose everything to get long-term care.

It is the same with prescription drugs. They do not want to lose everything before they are so poor that they have to go on Medicaid to get prescription drugs from the Government. Our amendment is basically limiting out-of-pocket expenses.

The other misconception of our amendment is that you do not get any help if you have, say, $9,000 in income. You absolutely do. That is what our prescription drug discount card is all about. Every senior on a voluntary basis—if they want to sign up—because of group buying, this cooperative-type buying, similar to what HMOs do today, can save about 40 percent. Most HMOs say you save 40 percent versus retail on their prescription drugs. Every senior who signs up for our plan would be able to save up to 40 percent on their prescription drugs, regardless of income. Regardless of where in any of these ranges they fit, they save up to 40 percent.

When we combine that prescription drug discount card with limiting out-of-pocket expenses, along with what many States have done—if States want to be more generous, they can be. My State of Nevada is more generous. The State of Massachusetts, as we have learned today, is more generous. The State of West Virginia has a drug discount card that is working very well. Other States have put these programs into effect. Our plan fits with most of the plans that are already working across the country. So for those seniors who truly need the help, they will get it.

I wish to close my time today with a couple real-life examples. Doris is a patient. She is 75 years old. We changed her name, obviously, for privacy reasons. She has an income of about $17,000 a year. This is a real-life case. She is being treated for diabetes, hypertension, and high cholesterol. She is on Lipitor, Gloucophage, insulin, Coumadin, and Monopril. These are common medications. These are $300 in monthly expenses, about $3,600 per year.

To compare the various plans on a real-life case, under the Graham-Miller-Kennedy plan, the leading Democrat proposal, she would have out-of-pocket expenses of $2,200. Under the tripartisan plan, it is about $2,100. Under our plan, it is $1,700. Ours is more generous to the person who is really sick, who has a low to moderate income.

Example No. 2: Betty is 68 years old with $15,500 per year in income. She has breast cancer, not uncommon for a lot of senior women. She takes morphine, Paxil, dexamethazone, Acifex, trimethobenzamide, and Nolvadex. These cost almost $670—almost $8,000 per year.

Let's compare what happens under the various plans. Under the leading Democrat proposal, she would pay $3,180 out of pocket. Under the tripartisan plan, she would pay about $2,600, and under the Hagel-Ensign plan, she would pay $2,150.

Once again, in a real-life example, the person who is sick who needs the most would do better under our plan, and that is why we are asking people to support this plan.

Mr. GRASSLEY. Mr. President, last night and earlier today the Senate debated the Hagel-Ensign prescription drug amendment. During the course of that debate, some Members on the other side made a comparison of the cost of the Graham-Kennedy prescription drug amendment and the revenue loss of a proposal to repeal the ''sunset'' of death tax relief provisions in last year's bipartisan tax relief bill.

The essence of the argument was that the budget effects of these proposals are roughly equal. As we heard many times, the Senate was supposedly making a choice between these two proposals. Senator SCHUMER claimed, during the argument, two different figures for repeal of the sunset. At one point, the Senator from New York claimed the revenue loss was $670 billion. At another point, a few moments later, the Senator from New York claimed the revenue loss was $600 billion.

The Congressional Budget Office scored the Graham amendment as a spending increase of $594 billion. This figure covers the 8-year proposal's 10-year budget effect. Now, if you accepted Senator SCHUMER'S figures as is, then there might be some basis for his argument. That is, if, in fact, the Joint Committee on Taxation scored the proposed permanent death tax relief proposal at $600 billion or $670 billion, then Senator SCHUMER's argument might be worth debate.

The facts are different. I don't know where Senator SCHUMER got his figure. Maybe it was a liberal think tank, such as the Center on Budget Policy and Priorities. Maybe it was a partisan liberal communications shop, like the Senate Democratic Policy Committee. I don't know where he got the number.

I do know this: The number doesn't apply. For purposes of the Congressional Budget Act, tax provisions are to be scored by the nonpartisan Joint Committee on Taxation.

According to Joint tax, the permanent death tax relief proposal scores at $43.6 billion if you use the fiscal year 2002 budget resolution. That is the one the Senate is currently operating under. If you use the fiscal year 2003 budget resolution, the one under which the House is operating, permanent death tax relief scores at $99.4 billion.

So the real number is, at most, $99.4 billion, for permanent death tax relief. That is one-sixth the cost of the Graham amendment.

It is interesting to note that during last month's debate on the death tax that the Senator from New York supported Senator DORGAN'S amendment. That amendment was scored by Joint Tax as losing $111 billion over 10 years. Basically, Senator SCHUMER voted for death tax relief of $11 billion more than the proposal he criticized last night and today.

So if we are talking about choices between resources for prescription drugs and death tax relief, let's review the record. Let the record reflect that Senator SCHUMER and 39 other members of the Democratic Caucus voted for $11 billion more in death tax relief than

their colleagues. For reference, that's rollcall vote No. 149. It is set out in page S5412 of the CONGRESSIONAL RECORD of June 12, 2002.

The Senator from New York's use of erroneous data on the bipartisan tax relief package is unfortunately part of a coordinated strategy on the part of the Democratic leadership. It is also data unchallenged by many in the media. In fact, many in the media parrot another of the Democratic Leadership's equally erroneous statistics. We keep hearing and reading that the bipartisan tax relief package yielded 40 percent of its benefits to the top 1 percent of taxpayers. This statistic, like Senator SCHUMER's other tax relief statistics, is dramatically at odds with Joint Tax, the official scorekeeper for Congressional tax relief.

According to Joint Tax, the bipartisan tax relief package makes the Tax Code more progressive.

I make this statement for one basic reason. The issues of prescription drugs and death tax relief are important matters. Certainly every one of us hears about both of these issues when we are back home. They are issues that our constituents expect us to resolve. Folks back home expect us to be intellectually honest in debating these important matters. When we debate these issues, we ought to use intellectually honest figures.

I ask unanimous consent to print the Joint Committee on Taxation's revenue estimate of the proposed estate tax relief and the distribution analysis in the RECORD.

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

ESTIMATED REVENUE EFFECTS OF H.R. 2143, "PERMANENT DEATH TAX REPEAL ACT OF 2001", FISCAL YEARS 2002–2012

[Billions of Dollars]

Provision	Effective	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2002–07	2002–12
Make Permanent the Repeal of the Estate Tax and the Generation-Skipping Transfer Tax.	dda & gma 12/31/10	.....	−1.2	−1.5	−1.8	−2.3	−2.5	−2.7	−2.8	−4.0	−24.9	−55.8	−9.2	−99.4

Note: Details may not add to totals due to rounding. Legend for "Effective" column: dda=decedents dying after; gma=gifts made after.

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836

(Prepared by the staff of the Joint Committee on Taxation, May 26, 2001)

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836[1]

Income category[2]	Change in Federal taxes[3]		Federal taxes[3] under present law		Federal taxes[3] under proposal		Effective tax rate[4]	
	Millions	Percent	Billions	Percent	Billions	Percent	Present law (percent)	Proposal (percent)
CALENDAR YEAR 2001								
Less than $10,000	−$75	−1.0	$7	0.4	$7	0.4	8.7	8.6
10,000 to 20,000	−2,989	−11.5	26	1.5	23	1.4	7.5	6.7
20,000 to 30,000	−5,790	−9.4	62	3.5	56	3.3	13.4	12.2
30,000 to 40,000	−5,674	−6.4	89	5.1	83	4.9	16.1	15.1
40,000 to 50,000	−5,490	−5.4	102	5.9	97	5.7	17.4	16.4
50,000 to 75,000	−11,546	−4.5	256	14.6	244	14.4	19.1	18.3
75,000 to 100,000	−8,488	−3.5	244	13.9	235	13.9	21.7	21.0
100,000 to 200,000	−10,488	−2.6	408	23.3	397	23.5	24.2	23.6
200,000 and over	−6,997	−1.3	555	31.7	548	32.4	27.8	27.4
Total, All Taxpayers	−57,536	−3.3	1,748	100.0	1,690	100.0	21.4	20.7
CALENDAR YEAR 2002								
Less than $10,000	−75	−1.0	7	0.4	7	0.4	9.2	9.1
10,000 to 20,000	−3,596	−13.3	27	1.5	23	1.3	7.6	6.6
20,000 to 30,000	−7,124	−11.3	63	3.4	56	3.2	13.5	12.0
30,000 to 40,000	−6,849	−7.6	91	4.9	84	4.8	16.1	14.8
40,000 to 50,000	−6,198	−5.8	106	5.8	100	5.7	17.5	16.5
50,000 to 75,000	−13,251	−5.0	267	14.5	254	14.4	19.0	18.0
75,000 to 100,000	−10,227	−4.0	255	13.9	245	13.9	21.7	20.8
100,000 to 200,000	−14,416	−3.3	442	24.1	427	24.3	24.2	23.4
200,000 and over	−16,557	−2.9	578	31.5	562	32.0	27.9	27.1
Total, All Taxpayers	−78,294	−4.3	1,836	100.0	1,758	100.0	21.5	20.6
CALENDAR YEAR 2003								
Less than $10,000	−83	−1.1	8	0.4	8	0.4	9.7	9.6
10,000 to 20,000	−3,516	−12.9	27	1.4	24	1.3	7.6	6.6
20,000 to 30,000	−7,135	−11.0	65	3.3	58	3.1	13.6	12.1
30,000 to 40,000	−6,946	−7.5	93	4.8	86	4.6	16.0	14.8
40,000 to 50,000	−6,155	−5.7	108	5.6	101	5.5	17.4	16.4
50,000 to 75,000	−13,554	−4.9	279	14.4	266	14.3	18.9	18.0
75,000 to 100,000	−10,553	−4.0	265	13.7	255	13.8	21.7	20.8
100,000 to 200,000	−15,487	−3.2	479	24.8	464	25.1	24.2	23.4
200,000 and over	−17,453	−2.9	609	31.5	591	31.9	28.1	27.3
Total, All Taxpayers	−80,882	−4.2	1,933	100.0	1,852	100.0	21.5	20.6
CALENDAR YEAR 2004								
Less than $10,000	−69	−0.9	8	0.4	8	0.4	10.0	9.9
10,000 to 20,000	−3,429	−12.6	27	1.3	24	1.2	7.6	6.6
20,000 to 30,000	−7,121	−10.8	66	3.3	59	3.1	13.6	12.2
30,000 to 40,000	−6,964	−7.3	96	4.7	89	4.6	16.0	14.8
40,000 to 50,000	−6,320	−5.8	110	5.4	103	5.3	17.4	16.4
50,000 to 75,000	−15,049	−5.2	288	14.2	273	14.2	18.7	17.8
75,000 to 100,000	−12,913	−4.6	279	13.8	266	13.8	21.5	20.5
100,000 to 200,000	−22,095	−4.3	512	25.2	490	25.3	24.1	23.0
200,000 and over	−21.671	−3.4	642	31.6	620	32.1	28.2	27.3
Total, All Taxpayers	−95,630	−4.7	2,028	100.0	1,932	100.0	21.6	20.6
CALENDAR YEAR 2005								
Less than $10,000	−76	−1.0	8	0.4	8	0.4	10.1	10.0
10,000 to 20,000	−3,867	−14.0	28	1.3	24	1.2	7.6	6.5
20,000 to 30,000	−7,937	−11.6	68	3.2	60	3.0	13.7	12.1
30,000 to 40,000	−7,720	−7.9	98	4.6	90	4.4	16.0	14.7
40,000 to 50,000	−6,945	−6.2	112	5.3	105	5.2	17.2	16.2
50,000 to 75,000	−16,630	−5.5	303	14.2	286	14.1	18.7	17.6
75,000 to 100,000	−14,709	−5.1	287	13.5	273	13.5	21.4	20.3
100,000 to 200,000	−24,654	−4.5	547	25.7	522	25.8	24.0	22.9

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836[1]—Continued

Income category[2]	Change in Federal taxes[3]		Federal taxes[3] under present law		Federal taxes[3] under proposal		Effective tax rate[4]	
	Millions	Percent	Billions	Percent	Billions	Percent	Present law (percent)	Proposal (percent)
200,000 and over	−21,182	−3.1	678	31.9	657	32.4	28.3	27.4
Total, All Taxpayers	−103,720	−4.9	2,129	100.0	2,025	100.0	21.6	20.6
CALENDAR YEAR 2006								
Less than $10,000	−76	−0.9	8	0.4	8	0.4	10.4	10.3
10,000 to 20,000	−3,789	−13.6	28	1.2	24	1.1	7.6	6.6
20,000 to 30,000	−7,853	−11.4	69	3.1	61	2.9	13.7	12.2
30,000 to 40,000	−7,839	−7.9	99	4.4	91	4.4	16.0	14.7
40,000 to 50,000	−7,570	−6.5	116	5.2	108	5.2	17.2	16.0
50,000 to 75,000	−18,755	−6.0	313	14.0	294	14.0	18.6	17.5
75,000 to 100,000	−17,212	−5.8	297	13.3	280	13.3	21.3	20.0
100,000 to 200,000	−30,208	−5.1	588	26.3	558	26.6	23.9	22.7
200,000 and over	−44,177	−6.1	719	32.1	675	32.1	28.3	26.6
Total, All Taxpayers	−137,476	−6.1	2,238	100.0	2,100	100.0	21.7	20.3

[1] Includes provisions affecting the child credit, individual marginal rates, a 10% bracket, limitation of itemized deductions, the personal exemption phaseout, the standard deduction, 15% bracket and EIC for married couples, deductible IRAs, and the AMT.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable Social Security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels.

[3] Federal taxes are equal to individual income tax (including the outlay portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis. Does not include indirect effects.

[4] the effective tax rate is equal to Federal taxes described in footnote (3) divided by: income described in footnote (2) plus additional income attributable to the proposal.

Source: Joint Committee on Taxation. Detail may not add to total due to rounding.

UPDATED DISTRIBUTION OF CERTAIN FEDERAL TAX LIABILITIES BY INCOME CLASS FOR CALENDAR YEAR 2001

(Prepared by the staff of the Joint Committee on Taxation, August 2, 2001)

INTRODUCTION

This document, prepared by the staff of the Joint Committee on Taxation, shows the update distribution for calendar year 2001 of certain Federal tax liabilities of individuals by income class. This distribution has been updated to reflect changes enacted in the Economic Growth and Tax Reconciliation Relief Act of 2001 (Public Law 107–16).

The first table shows the distribution of the Federal individual income tax and the second table shows the distribution of the Federal individual income tax, Federal excise taxes, and Federal employment taxes.

For purposes of these tables, the income concept used for classifying taxpayers is adjusted gross income (''AGI'') plus: (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of FICA tax, (4) worker's compensation, (5) nontaxable Social Security benefits, (6) insurance value of Medicare benefits, (7) alternative minimum tax preference items, and (8) excluded income of U.S. citizens living abroad.

The first table shows the distribution of the Federal individual income tax, including the outlay portion of the earned income credit (''EIC'') and the child credit. The table shows, by income category, (1) the number of returns and the percent of all returns represented by the category, (2) the aggregate income and the percent of all income represented by the category, (3) the aggregate individual income taxes paid and the percent of all individual income taxes paid by the category, and (4) the number of returns with zero or negative tax liability and the percent of all returns with zero or negative tax liability represented by the category.

The second table show the distribution of the combined Federal individual income tax (including the outlay portion of the EIC and the child credit), Federal excise taxes, and Federal employment taxes (those taxes required under the Federal Insurance Contributions Act and Federal Unemployment Tax Act). The table shows (1) the number of returns and the percent of all returns represented by the category, (2) the aggregate income and the percent of all income represented by the category, and (3) the aggregate Federal taxes paid and the percent of all Federal taxes paid by the category.

DISTRIBUTION OF FEDERAL INDIVIDUAL INCOME TAX LIABILITY[1]—CALENDAR YEAR 2001

[Updated August 2, 2001]

Income category[2]	No. of returns[3]		Income		Individual income tax		No. of returns with zero or negative liability	
	Millions	Percent	Billions	Percent	Billions	Percent	Millions	Percent
Less than $10,000	19.9	14.0	$83	1.0	−6	−0.7	18.9	37.4
10,000 to 20,000	23.3	16.4	347	4.2	−13	−1.3	16.4	32.4
20,000 to 30,000	18.5	13.0	460	5.6	3	0.4	8.5	16.9
30,000 to 40,000	15.8	11.1	549	6.7	22	2.4	3.8	7.5
40,000 to 50,000	13.1	9.2	589	7.2	33	3.5	1.8	3.7
50,000 to 75,000	21.9	15.4	1,337	16.4	100	10.6	1.0	2.0
75,000 to 100,000	12.9	9.1	1,121	13.7	110	11.6	0.1	0.2
100,000 to 200,000	12.8	9.0	1,683	20.6	226	23.9	(4)	0.1
200,000 and over	3.8	2.7	1,999	24.5	471	49.7	(4)	(5)
Total, All Taxpayers	142.0	100.0	8,168	100.0	948	100.0	50.6	100.0
Highest 10%	14.2	10.0	3,431	42.0	670	70.7	(4)	0.1
Highest 5%	7.1	5.0	2,556	31.3	559	59.0	(4)	(5)
Highest 1%	1.4	1.0	1,402	17.2	357	37.6	(4)	(5)

[1] Includes the outlay portion of the EIC and child credit.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable Social Security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels. The highest 10% begins at $107,455, the highest 5% at $145,199 and the highest 1% at $340,306.

(3) Includes filing and nonfiling units. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded.

(4) Less than 50,000.

(5) Less than 0.005%.

Source: Joint Committee on Taxation.
Detail may not add to total due to rounding.

DISTRIBUTION OF FEDERAL TAX LIABILITY[1]—CALENDAR YEAR 2001

[Updated August 2, 2001]

Income category[2]	No. of returns[3]		Income		Federal tax liability	
	Millions	Percent	Billions	Percent	Billions	Percent
Less than $10,000	19.9	14.0	$83	1.0	$7	0.4
10,000 to 20,000	23.3	16.4	347	4.2	23	1.4
20,000 to 30,000	18.5	13.0	460	5.6	56	3.3
30,000 to 40,000	15.8	11.1	549	6.7	83	4.9
40,000 to 50,000	13.1	9.2	589	7.2	97	5.7
50,000 to 75,000	21.9	15.4	1,337	16.4	244	14.4
75,000 to 100,000	12.9	9.1	1,121	13.7	235	13.9
100,000 to 200,000	12.8	9.0	1,683	20.6	397	23.5

DISTRIBUTION OF FEDERAL TAX LIABILITY [1]—CALENDAR YEAR 2001—Continued

[Updated August 2, 2001]

Income category [2]	No. of returns [3]		Income		Federal tax liability	
	Millions	Percent	Billions	Percent	Billions	Percent
200,000 and over	3.8	2.7	1,999	24.5	547	32.4
Total, All Taxpayers	142.0	100.0	8,168	100.0	1,689	100.0
Highest 10%	14.2	10.0	3,431	42.0	890	52.7
Highest 5%	7.1	5.0	2,556	31.3	686	40.6
Highest 2%	1.4	1.0	1,402	17.2	391	23.2

[1] Federal taxes are equal to individual income tax (including the outlay portion of the EIC and child credit), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable Social Security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels. The highest 10% begins at $107,455, the highest 5% at $145,199 and the highest 1% at $340,306.

[3] Includes filing and nonfiling units. Individuals who are dependents of other taxpayers with negative income are excluded.

Source: Joint Committee on Taxation. Detail may not add to total due to rounding.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Nebraska.

Mr. HAGEL. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Five minutes forty-five seconds.

Mr. HAGEL. I yield myself such time as I consume.

Mr. President, this debate in which our body has engaged over the last 5 days I believe has been helpful for our country because it has focused on a critical need, a need to come forward with a Medicare prescription drug plan, a plan that is focused on those who need it most and that is responsible.

None of the programs we have debated over the last few days have been perfect. The proposal that Senator ENSIGN and I and others have brought to the floor is not perfect. We were not given much of an opportunity to work through these issues where we normally have opportunities to work through issues, and that is in committee. So we debated something so critical to our seniors, to the future of our country on the floor of the Senate. When we do it that way, we have to rush. We slam things together. There are imperfections in that process, but nonetheless, again, I believe this has been an important, enlightened, educational, and helpful process.

We now have one option before us. We voted down two options yesterday. We have the Hagel-Ensign plan that we will vote on within the hour. What this plan does is give our seniors a very significant benefit. I ask: Would we really deny our seniors not only the benefit—the real, practical, relevant, tangible benefit—of this program, but also something maybe more important, and that is the peace of mind that they will not be ruined by catastrophic drug costs? Let's again review quickly what this amendment does.

This is immediate. It can be up and running on January 1, 2004. It is permanent, unlike the Democratic plan that we voted down yesterday.

It offers discount drug card programs with 20- to 40-percent discounts for all who enroll.

It is affordable. Seniors pay only a $25 annual fee and then a small copayment after they have reached their out-of-pocket expense level.

It provides catastrophic coverage. We use the market system. We do not invent more government, bigger government, impersonal government. We propose a real-world solution to a real-world problem with this proposal.

This bill gives our seniors the protection they need and for those who need it most. I encourage my colleagues to look seriously and closely at what we are proposing today.

It is accountable, it is responsible, it fits within the $300 billion budget resolution that we passed last year for a prescription drug plan over the next 10 years. We are giving the seniors an opportunity for peace of mind and real benefits that will enhance their quality of life and enhance the ability for not just this senior generation but future generations to pay for their health care costs, at the same time taking into consideration the generations ahead who will have to pay for this program.

Someone will pay for this program. We need a program, but let us use some common sense. Let us find a center of gravity, an equilibrium, and do it right. We believe our amendment accomplishes that.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Massachusetts.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM THE RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES, 2002—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying H.R. 4775. The clerk will report the conference report.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The report is printed in the House proceedings of the RECORD of July 19, 2002, at page 4935.)

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, how much time is allotted for debate on the conference report?

The PRESIDING OFFICER. Thirty minutes equally divided between the chairman and the ranking member.

Mr. BYRD. I thank the Chair. Madam President, Senator STEVENS is on his way. He is the ranking member on the Appropriations Committee and he will share the time with me. I have been informed he has indicated I should proceed immediately with my statement, and he will shortly reach the floor and speak on the conference report himself.

The Senate will then vote on the conference report for the fiscal year 2002 supplemental appropriations bill. This conference agreement provides critical investments in national defense, both at home and abroad. Let me say that again. This conference report provides critical investments in national defense, both at home and abroad. So let the world know that the Appropriations Committee has acted expeditiously, working with the House Appropriations Committee in conference, and that Senators on both sides of the aisle have worked hard with their staffs to provide for these investments in the Nation's defense, both at home and abroad.

This agreement is the result of true bipartisan, bicameral cooperation, and I urge its adoption.

Last fall, America was in shock. The World Trade Center and the Pentagon had been attacked. Thousands of Americans had lost their lives to the brutal terrorist attacks. Our eyes were opened to the new reality of war in the 21st century, a different kind of war. No

longer were we immune from attack on the homeland that we all love. No longer did the great oceans shield our country from the violence that had scarred so many nations elsewhere in the world. The danger was real. The enemy was among us, not just in some foreign land on another continent. We could not ignore the massive gaps in our security any longer.

In response, within days of the attacks, Congress adopted a $40 billion emergency supplemental bill to fund our military efforts overseas and to protect Americans from further attacks at home. I say that again. Within 3 days, Congress adopted a $40 billion—not million but $40 billion—emergency supplemental bill to fund our military efforts overseas and to protect Americans from further attacks at home.

That funding helped our U.S. troops to bring the downfall of the Taliban, the shakeup of the terrorist al-Quida network, and the start of worldwide commitment to end terrorism—wherever it could end, if we could end it at home, that initial funding paid for more than 2,200 agents and inspectors to guard our long, porous borders with Canada and Mexico. The foreign student visa program, which has been identified as one of the Immigration and Naturalization Service's chief loopholes, is undergoing a tighter tracking system because of funding that Congress this body and the House included in that initial funding package.

Across the country, local police officers, firefighters, and emergency medical teams are receiving new training and equipment to handle threats that, before last fall, they hardly considered possible. Who would have imagined that their community fire department and paramedics would need training on how to respond to a chemical or biological or radiological attack? Bake sales and bingo nights could not possibly fund terrorist response efforts. Congress had a responsibility to respond, and Congress did respond. We responded within 3 days. We knew what our duty was. We knew where our duty lay—and we acted.

Federal law enforcement also benefited from the work of this Congress, from the work of this committee, this Appropriations Committee. Because of the funding contained in the initial supplemental bill, the FBI started to hire hundreds of new agents. Because the Appropriations Committees in both Houses appropriated the moneys, more than 300 additional protective personnel were hired to protect the Nation's nuclear weapons complex. Air marshals are coming on board to protect our planes. Madam President, 750 food inspectors were hired to ensure the safety of the meals served at America's kitchen table because—and they were able to do this—because this Appropriations Committees, which I chair, and which Senator TED STEVENS of Alaska has chaired before me, and on which he now sits as the ranking member, because this committee acted in a bipartisan way. No split; no aisle between the two parties on the Appropriations Committee. We joined together. We did not have to be told. We did not have to be ordered. We knew where our duty lay. So 750 food inspectors were hired.

These are just a few, just a few of the examples of the good work that came about because of the investments, the infusion of funds by Congress, starting with the Appropriations Committees, because of the commitment of the men and the women of this body to identify the gaps in homeland security and invest funds—your money, the taxpayers' money—to close those gaps.

In the months that followed that first supplemental, many congressional committees held hearings on homeland security. In the Senate Appropriations Committee, Senators STEVENS of Alaska and I convened 5 days of hearings. They were long. They were arduous. They were time consuming. They were tiring. Members heard from mayors. Members heard from Governors. Members heard from county officials. We received testimony from police officers, from firefighters, from local health officials, from terrorism experts, from experts on port security, from experts on water security and nuclear security. Seven Cabinet Secretaries and the Director of the Federal Emergency Management Agency, FEMA, appeared before this Appropriations Committee. The House Appropriations Committee did not hold a hearing. The Senate Appropriations Committee held a hearing. And Senator STEVENS and I joined in selecting everyone. Everything was done in a bipartisan way. So seven Cabinet Secretaries and the Director of the Federal Emergency Management Agency appeared before the Committee, as well as two former colleagues—Senator Sam Nunn of Georgia and Senator Warren Rudman of New Hampshire.

What we learned was eye opening. What we learned was that despite all of the efforts of Congress and of the men and women at the local level, the task before us was massive. As a result of the incredible backlog of homeland security needs, one truth was clearly evident; namely, this country was not prepared. We are vulnerable today.

Earlier this summer, it seemed the administration issued another terrorist warning to the American people almost daily. Those warnings only underscored the fact that the new enemy lives in our midst—here among us. So, as Christopher Wren would say, if you seek my monument, look about you. If you seek the enemy, look about you. He is somewhere. He is invisible. But he is sure in our midst.

So the enemy, the new enemy, lives among us, moving through our society with ease, crafting life-threatening weapons with everyday aspects of life: Tanker trucks, postal mail, airplanes, waste radiological material from hospitals and energy plants. Any of these, and more, we are told can be fashioned into weapons to cause death, destruction, fear, panic.

The Appropriations Committee of the Senate heard testimony that indicated America's adversaries could cripple the U.S. economy without great difficulty. That was one of the main objectives of the enemy. They could cripple the economy, but at a far greater cost than any corporate scandal even. The enemy can disrupt the economy without great difficulty and at far greater cost than even any corporate scandal, and the roots of a corporate scandal are running deep, as we know.

Yet what we do not know is the most vexing: Where will the terrorists attempt to strike next? And when? We may not know the answer to those questions until it is too late and the attacks are upon us.

What this Congress has a responsibility to do is to invest in protections that work to prevent attacks before they can occur, and we must help to train our emergency responders to be prepared should another attack strike within our border. We need to do more. We need to do more now. That is why the conference report before the Senate is so critical.

This afternoon, the Senate Governmental Affairs Committee is writing legislation to create a new Department of Homeland Security. But that Department, no matter how well crafted, will take time before it can be an effective tool against terrorism. I am thankful for the fact that the ranking member of the Senate Appropriations Committee, Senator STEVENS, sits on that committee.

We all know where the holes are in our protections—borders, ports, at our nuclear facilities, and throughout our transportation system. If we know where those holes are, then surely the terrorists know, don't you think?

We should not wait—we must not wait—for the next fiscal year or the next calendar year to plug the holes in our homeland security. Congress and the President should make the critical investments that will protect Americans now—today!—without delay.

This conference report makes those investments. It directs $6.7 billion for homeland security initiatives, including $3.85 billion for the Transportation Security Administration. Another $14.4 billion will allow the men and women in the Armed Services to continue to track down those responsible for the terrorist attacks almost 11 months ago. The conference report also fulfills Congress's promise to the people of New York to provide $20 billion to help them recover from the attacks on the World Trade Center with a final installment in this bill of $5.5 billion. The remainder of the funding will go toward other national emergencies including fire suppression in the West, flood recovery efforts in the Midwest and South, and veterans' health care. The shortfall in the Pell Grant program is resolved, and Amtrak, the nation's passenger rail service, will be

able to stave off bankruptcy, because there are $2.5 billion included in this conference report for Amtrak.

This is a balanced bill, a responsible bill, and one that I hope the President will sign. I hope he will sign all of this emergency funding into law quickly.

Why do I say ''all of this emergency funding''? I say that because Congress gives the President a choice. We have stated that it is the Congress's position that these investments are an emergency and they should be made. If the President signs this bill, he will have 30 days to decide whether to agree with Congress and designate more than $5.1 billion in this legislation as an emergency. If he does not make the emergency designation, the funds cannot be spent.

How much time do I have?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD. Madam President, I ask unanimous consent that I may proceed for an additional time not to exceed 7 minutes and that my partner, my fellow Senator, my colleague, may be also allowed that time, and that the time for the vote be changed accordingly.

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

Mr. BYRD. Within the $5.1 billion there is nearly $2.5 billion for homeland security. That includes funding for firefighters, police officers, port and border security, and airport security, search and rescue teams, food safety, drinking water safety.

Let me back up just a moment. The self-imposed interruption might cause listeners to lose sight of just where we were.

So we say the President has 30 days in which to decide whether to agree with Congress and designate more than $5.1 billion in this legislation as an emergency. If he doesn't make the emergency designation, the funds cannot be spent—I am talking about the President. If he doesn't make the designation, the funds can't be spent. Within the $5.1 billion—that is what we are talking about—included as emergencies, within that $5.1 billion which the President must agree to if it is to be spent, there is nearly $2.5 billion for homeland security. That includes funding for firefighters, police officers, port and border security and airport security, search and rescue teams, food safety, drinking water safety.

If the President does not make the emergency designation, he will block nearly $2.5 billion in homeland security investments. I hope that the President will join with Congress in this bipartisan approach to homeland security, declare these items to be an emergency, and make these important investments immediately to protect the American people from terrorist attacks.

In addition, if the President decides not to make the emergency designation, he also will block funding for the National Guard and Reserves; election reform; combating AIDS, tuberculosis; and malaria overseas; flood prevention and mitigation; embassy security; aid to Israel and disaster assistance to Palestinians; wildfire suppression; emergency highway repairs; and veterans health care.

These critical appropriations for the American people have been delayed for too long, sometimes as a result of Administration intervention, and the time has come for its speedy passage and the President's signature.

Once again I want to thank my Ranking Member, Senator STEVENS, the former chairman of this committee, for his dedication, his assistance, and, indeed for his leadership on this bill. If it were not for Senator STEVENS, his work, this bill would not be here today. Without his hard work and constant efforts, we would not be here to present this conference report to the Senate today. I also thank our House colleagues, Chairman BILL YOUNG of Florida and Ranking Member DAVID OBEY of Wisconsin, for their cooperation and commitment to the well-being of the American people.

Between the supplemental bill last fall and this conference report, Congress has approved $15 billion for homeland security initiatives, $5.3 billion above the President's request. This legislation is a real victory for the American people. It speeds protections that are so desperately needed at our borders and our ports. It provides vital training for police, firefighters, and emergency medical personnel. Through this legislation, Congress is making investments today that will help to protect Americans from terrorist attack for many years to come.

I urge my colleagues to support this conference agreement, and I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I am pleased to join the Chairman of our Committee, Senator BYRD, in recommending this conference report to the Senate. The consideration of this conference report today in the Senate, following its overwhelming adoption in the other body yesterday, reflects the true consensus that surrounds this agreement.

While not an easy process, the compromises reached on this bill meet the most vital Defense and Homeland Security needs facing our Nation.

In addition, this agreement fulfills the commitment of the Congress and the President to meet the needs of the victims of the attacks of September 11 of last year.

While passed in very different forms by both Houses of Congress, this conference report adheres to the priorities submitted to Congress by the President. With the funds added by Congress in the form of contingent emergency appropriations, the President will have even greater flexibility to address challenges not fully foreseen when his request was transmitted on March 21, if he approves the emergency designation.

Additional funds for the Department of Defense will address the mobilization of National Guard and Reserve personnel from around the Nation.

Funds for port security grants and the Coast Guard will protect our Nation's maritime commerce and trade.

Funds added in this bill for aids response in Africa will jump start the international effort to address that scourge.

The House and Senate Both included additional funds to assist Israel, and those prepared to join Israel in seeking a permanent and lasting peace.

The conference report makes an initial down payment to respond to dramatic flood and fire emergencies in several states, particularly in the West.

While many activities were reduced during the conference to meet the funding limit sought by the President, and the OMB, one component not touched was support for New York.

Governor Pataki and Mayor Bloomberg deserve our continued support for their leadership and determination to recover from the attacks last year. This bill keeps our word to New York and to those officials.

Despite suggestions from OMB, the conferees rejected any cut to the funding for reconstruction and renovation of the Pentagon.

Restoration of the sector of the Pentagon damaged on September 11 is on track for re-opening on the one year anniversary of the attack—really our Nation's center of military strategy. We will keep faith with those who died defending our Nation at the Pentagon as well as those in New York.

I want to commend our Chairman, Senator BYRD, and the House Chairman, BILL YOUNG, for their exceptional work to bring this conference report before the Congress.

Along with House Ranking Member OBEY, I have worked to ensure completion of this bill prior to the August recess and in time to make a difference during the remainder of this fiscal year.

If the President makes the certification that he has the authority to do within 30 days after passage of this bill, the moneys will be available to use for the contingent emergencies we have specified. The sooner that happens, the better it will be for our Nation.

But above all, I urge all Members of the Senate to approve this conference report and send it to the President as quickly as possible so it will be possible to get this money to our people—particularly to the Department of Defense and all our people in uniform—by the beginning of August.

Mr. KYL. Madam President, I rise today in support of an improved supplemental appropriations bill for fiscal year 2002. I am glad to see that the Senate conferees have reassessed their position and agreed to reduce the amount they had originally sought by more than $2.5 billion. The conference report now totals $28.9 billion, which is

only $1.8 billion over the President's request, and an amount he said he would support.

Additionally, the vast majority of the funds will now be appropriated as a contingent emergency, giving the President discretion on whether they should be spent, instead of forcing him to designate ''all or none'' of the non-defense funding items as emergency items.

The bill has been improved in other areas as well, signifying a marked realignment of priorities by the conferees. For example, I am pleased that this report increases defense funding by $330.9 million. Although this is an increase over the President's request, the conferees used updated Department of Defense execution data to make many of their adjustments. They also made rescissions to un-executable programs and took back unobligated funds resulting from revised economic assumptions in order to offset much-needed increases to the defense budget. I note that the increase is primarily focused on operations and maintenance, $723.6 million, an area most critical to the Department.

Specifically, I support increases to the Navy flying hour account by $140 million, the ship operations account by $225 million, the Air Force airlift account by $626 million, and the Army's logistical support account by $1.03 billion. These increases will go a long way in helping our troops around the globe. In the procurement line, much of the funding is related to purchasing advanced C3I equipment. And in the Research and Development line, the conferees provided additional funds to upgrade existing C3I programs, increases that will be crucial to the successful execution of our war on terror.

Additionally, this bill includes the American Service Members' Protection Act language that was proposed by both Chambers, and it maintains the Senate's provision giving our military the flexibility to conduct operations in coordination with international efforts to pursue foreign nationals accused of war crimes, crimes against humanity, and genocide.

On the domestic front, I would also note that the conference report includes $100 million in disaster assistance for fires and floods, funds that are critically important to the State of Arizona. I strongly believe that this amount of funding is still woefully inadequate to address the dire circumstances surrounding the fires in the Western States; however, I am confident that there will be other legislative opportunities in which to adequately fund these firefighting efforts.

While this bill has improved in many ways, I still believe it spends too much money on low-priority programs that are not truly emergencies, for example, provisions dealing with another Amtrak bailout and numerous non-emergency pork projects such as coral reef mapping. That said, especially given the need to support our war on terrorism, the merits of this legislation now outweigh its deficiencies. Although not perfect, the bill deserves the support of my colleagues. President Bush has asked that we get this bill to his desk before August recess. I am glad that we will be able to do so.

Mr. WELLSTONE. Madam President, I support this important supplemental appropriations bill, which primarily contains crucial spending that is immediately needed for homeland security purposes. I commend the managers for their efforts on it. I know that the chairman of the Appropriations Committee and the ranking member worked hard and diligently, as did others, to complete this bill. And I know that they are not responsible for its delay. I am glad the bill will now go to the President, and this funding can go quickly to meet urgent national security needs.

I would like briefly to highlight three topics touched upon by the bill, items which are not the largest matters dealt with here, but which I consider to be very important. The issues are workforce development, disaster assistance and veterans' health care.

First, as chair of the Employment, Safety and Training Subcommittee, with jurisdiction over workforce development issues, I want to address the elimination of emergency funding for job retraining services through the Workforce Investment Act, WIA, which occurred late during the conference on this bill.

What has happened in connection with WIA programs is, I fear, just the tip of the budgetary iceberg. Although confronted with severe economic distress and uncertainty and record unemployment, we are being told by the administration that we lack the resources for key job-training services. Having spent our surplus on tax cuts for the well to do, we do not have the resources to fund services that are essential in helping displaced workers train for and find new employment and in helping businesses find the skilled workers they need to stay competitive in our global economy.

Yet investments in a skilled workforce are precisely what we need right now. As former Treasury Secretary Rubin recently said, to rebuild confidence in our financial markets and economic system, ''[b]udgeting priorities should heavily emphasize preparing our future workforce to be competitively productive in the global economy . . . ''

The irony is that additional support for WIA was in the President's initial fiscal year 2002 supplemental request. He proposed $750 million for WIA, including the restoration of last year's $110 million rescission of dislocated worker formula funds. The Senate and the House followed, both including WIA funding at lower levels.

But then, in the quest to reach the overall target the President and OMB Director Mitch Daniels set for the emergency supplemental, all of the WIA funding was cut.

Frankly, this seems to contradict what the President is saying elsewhere. Just yesterday the President was quoted as saying that his biggest concern about Sunday's record bankruptcy filing by WorldCom was the effect on employees who lose their jobs. Well, the best thing we can do for people who have lost their jobs through Enron, WorldCom, and the other bankruptcies is to help them retrain and retool to find new jobs.

And earlier this year when he submitted his supplemental request, we were told: ''The President's supplemental budget request provides the urgent assistance that is needed now to ensure that affected workers get the assistance and jobs they need.''

This decision is a harsh one for the tens of thousands of workers who will not get the training they need to retool their careers. Already they are finding that the courses they want to take are closed or they are put on endless waiting lists. Workers dislocated because of the impact of trade and certified to receive Trade Adjustment Assistance find they are unable to get training because States have run out of resources and the National Emergency Grant funds that typically see the States through such shortages are themselves depleted

It is harsh as well for businesses that cannot find the skilled workers to stay competitive and take advantage of market opportunities to help fuel our economic recovery.

And it also threatens to undercut WIA's key reforms. States and localities, along with their private sector partners are now at a critical stage in the process of building the new systems called for in WIA. Without adequate funding and without stable funding this essential systems building will be undermined.

Moreover, all of this is happening while the new WIA infrastructure is being stretched to its limits with demands for services triggered by the catastrophic after effects of September 11, the highest unemployment in years, and the continuing dislocations from the largest bankruptcies ever seen in this Nation's history.

This is why I am concerned. This is why I felt I had to speak out. I understand that we are not going to change the fiscal year 2002 emergency supplemental to address this problem. But I do want my colleagues to understand the full impact of the decisions that have been made in this bill concerning some very important priorities. I urge my colleagues to reflect on these implications so that when we take up the fiscal year 2003 Labor/HHS Appropriations bill, we will be especially careful not to further undermine the WIA programs that are so critical to American workers, businesses, and our economic recovery.

The second topic I would like to address is disaster assistance. As a result of severe flooding in Northwestern Minnesota 17 counties are under a federally declared disaster: Becker,

Beltrami, Clay, Clearwater, Itasca, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, McLeod, Norman, Pennington, Polk, Red Lake, Roseau, and Wright.

In the 17 counties that are currently included in the federally declared disaster, 1,785 homes were damaged. In Roseau alone over 1,180 homes were damaged.

I am pleased that the supplemental includes some much needed funding for FEMA. The disaster assistance included here represents a down payment in terms of the assistance that the families, businesses and communities in my State will need as they move forward and begin the process of rebuilding their homes, offices and cities.

The Minnesota Recovers Task Force estimates that there will be over $85 million in disaster funding needs as a result of this spring/summer flooding. Of this amount, nearly $50 million will be eligible for FEMA funding. That will leave approximately $35 million in recovery needs that will not be covered by existing FEMA and SBA assistance programs.

I am working closely with my colleagues, Senator DAYTON and Representative PETERSON, to secure additional flood recovery funding in the fiscal year 2003 HUD Appropriations bill. This funding will be used for the distinct purpose of meeting unmet needs for buyouts, relocation, rehabilitation, long-term recovery, and mitigation to aid the business community of Roseau, MN and the surrounding counties that have received a Federal disaster declaration. The funding will be used in coordination with other Federal, State, and local assistance.

While these FEMA programs are very important, unfortunately they are not geared to handle agricultural losses. In Northwest Minnesota an extraordinary rich agriculture region now lies devastated. According to the Farm Service Agency, this season's crop losses are estimated at more than $267 million across 14 counties. Overall, total agricultural flood losses, including damage to agricultural small businesses, are estimated at more than $370 million.

That is why Senator DAYTON and I introduced legislation to provide disaster assistance to agricultural producers last week. This legislation is a starting point to providing the needed assistance to farmers, many of whom, without this emergency assistance will be driven off their farms.

I believe the supplemental appropriations bill would have been the appropriate place to add emergency agricultural disaster assistance to cover weather-related losses. However, the Bush administration continues to oppose any emergency appropriation to provide disaster assistance to farmers. The administration's position is that in order to provide any relief to family farmers who lost their crop due to a flood or drought, money must be taken away from commodity program supports that assist other farmers. In other words, they are saying that when the President signed the farm bill, that was going to be all farmers could expect until 2008, no matter what.

That doesn't work for Northwestern Minnesota. The farm bill was not a disaster-assistance bill. It is a 6-year policy to help stabilize farm income and rural economies. Its funding is absolutely needed for that purpose.

We tried to include separate, emergency weather-disaster assistance in the farm bill, but the administration opposed that, too. They also opposed it when we tried to include it in the supplemental appropriations bill. When Congress decides to help areas affected by hurricanes or fires, we don't tell people to pull their emergency assistance out of somebody else's highway fund. Sometimes the Federal Government just needs to be there for people. The President needs to change his position and help us get some assistance to Northwestern Minnesota.

Finally, the supplemental appropriation bill includes $417 million for veterans health care that I requested which was included in the Senate's bill. These funds are critically important to the veterans in Minnesota. The need for services has simply overwhelmed the VA and in some ways there is more of a crisis now in VA health care now than there was even during the era of flat-lined budgets.

The $417 million for Veterans health care in this bill will mean that Minnesota's Network, VISN 23, will get an additional $19 million to reduce waiting times, keep clinics open, open new clinics, and improve the quality of healthcare. This is very badly needed.

I want to thank Senators MIKULSKI and BOND on the VA–HUD Subcommittee especially, because I know they fought to keep this money in conference, as well as Senators BYRD and STEVENS. We did right by veterans in this supplemental.

Mr. DODD. Madam President, I rise to comment briefly about Title II, the American Service Members Protection Act of H.R. 4775 in order to clarify the Senate''s intent in insisting on the retention of Sec. 2015 of that Title which was added during Senate consideration of the supplemental.

I read with interest the remarks of Chairman HENRY HYDE during House consideration of the conference report on July 23. I am certainly not in any position to dispute his comments concerning the first 14 sections of Title II relating to the American Service Members Protection Act, ASPA, as I was not a party to those discussions. I leave it to the administration and to others involved in those discussions to make that judgment.

I do, however, know something about the intent behind Sec. 2015 as I was the author of the amendment that was ultimately included in the Senate passed version of ASPA. A review of the Senate debate makes clear that I was offering the second degree amendment because of my concern with respect to the complexity of the House passed language which was offered as a first degree amendment by Senator WARNER. As written, I was concerned that it unduly restricted the ability of the President to cooperate with international efforts to bring to foreign nationals accused of genocide, war crimes or crimes against humanity to justice if he chose to do so.

Sec. 2015 makes clear that regardless of the other sections contained in Title II, the President is not prohibited from rendering assistance to any such international efforts, including to the International Criminal Court. An amendment to exclude cooperation with the ICC was proposed during the conference on H.R. 4775, but was rejected by the conferees. Therefore, as the language now stands the President has the discretion to cooperate with any and all international efforts to bring such criminals to justice.

I thank my colleagues for the opportunity to clarify an important addition to the House version of ASPA.

FUNDING OF HUMANITARIAN GOODS THROUGH COMMERCIAL SHIPPING

Mr. STEVENS. Madam President, the supplemental provides language supporting the shipment of humanitarian supplies to poor nations. My friend from Alabama was the initiator of this language and I was hoping he could provide the Senate with more information on this topic.

Mr. SESSIONS. Madam President, I would be glad to discuss the national Forum Foundation's TRANSFORM Program. With the help of my good friend from Alaska, I offered an amendment to the supplemental that was accepted by the Senate. I understand that it was modified during conference—but will now permit organizations, such as the National Forum Foundation's TRANSFORM program, to receive the much needed authority to receive funds to pay for administrative expenses.

TRANSFORM began 3 years ago as a natural extrapolation of the Denton Program. The Denton Program allows U.S. Air Force Transport aircraft under the control of CINCTRANS to deliver overseas on a space available basis, humanitarian aid donated by 501(c)(3) charity organizations.

In analyzing the transportation of humanitarian aid, the National Forum Foundation has learned that commercial ships have 2000 times the space than our Air Force aircraft and with the export-import imbalance, are usually relatively empty departing our ports.

The TRANSFORM program brings the 501(c)(3) charitable organizations, which collect and wish to distribute these goods, to the commercial shipping lines willing to carry them space-available. The charity has to be indoctrinated to conform to the loading dates and times, port locations and the

specific loading manner required by the ship-line. TRANSFORM exercises special means to ensure no delays in ports or customs issues.

Finally, TRANSFORM's system has a leverage of 250–1 meaning that for every dollar of its budgetary expenses, TRANSFORM gets $250 to needy recipients.

Mr. STEVENS. Madam President, may I make an inquiry to my friend from Alabama? Is it correct that the TRANSFORM program recently gained global recognition of its activities at a transportation conference hosted by USAID? I understand that in speaking of its activities, the World Food Programme's representative praised the program and offered it the use of spare space on their ships. This spurred others to offer their vessels—such as American President Line, Maersk and CSX.

Mr. SESSIONS. My friend from Alaska is correct. And I must commend him for the work that he did with the help of the House foreign Operations Subcommittee on this issue. The conferees were able to ensure that organizations that are working for the benefit of developing communities on behalf of the United States government and charitable organizations receive the assistance they need to execute their much laudable goals. I am very grateful to him for this support.

Mr. STEVENS. I am optimistic that the larger this program becomes, the more humanitarian aid will be delivered to those in need around the world. Gain, I thank my friend for bringing this amendment and look forward to its future success.

(At the request of Mr. STEVENS, the following statement was ordered to be printed in the RECORD.)

• Mr. HELMS. Madam President, I commend Senators BYRD and STEVENS and the entire Appropriations Committee, as well as the leadership of Senators WARNER and MILLER for ensuring that American soldiers, sailors, aviators and marines will not be subject to the jurisdiction of the International Criminal Court (ICC). (I, unfortunately, could not be here to offer an amendment on June 6 as I was recovering from surgery to replace a valve in my heart.) With inclusion of the American Servicemembers Protection Act, ASPA, in the emergency supplemental appropriations bill we can all be proud that the Congress put these brave men and women at the top of our priority list.

During Senate action on the emergency supplemental appropriations bill, Senator WARNER offered a unanimous consent request to include section 2015 in ASPA as generous gesture in the face of concerns raised about the spirit of the legislation. I have been assured by Senator WARNER that he did not intend to limit in any way the applicability of the bill or the binding nature of its substance. The hortatory nature of section 2015 was plain at the time it was adopted, and confirmed by the fact that, during debate shortly before ASPA was overwhelmingly approved, no Senator uttered a word—not a single word—to suggest that section 2015 made any substantive change to ASPA whatsoever.

Section 2015 was not part of ASPA language negotiated with the Administration. It merely reiterates that ASPA applies only to the International Criminal Court. It does not apply to other international efforts to bring to justice foreign nationals accused of genocide, war crimes, or crimes against humanity.

Section 2015 must be read in line with ordinary canons of statutory construction. Our courts have long affirmed that in interpreting laws the specific controls the general unless otherwise provided. There are many very specific provisions in ASPA about what is permitted and what is forbidden regarding the International Criminal Court. Had the Senate wished to weaken ASPA's restrictions through section 2015—thereby weakening its protections for American servicemembers—it would have had to amend them, strike them, or not withstand them directly. However, this would have been completely inconsistent with the plain language of the legislation, and the intent of its supporters.

The full text of sections 2004, 2006, and 2011, along with other provisions of the American Servicemembers' Protection Act, was adopted by the Senate by a vote of 78–21 when I offered an amendment to the Defense Appropriations for fiscal year 2002 bill on December 7, 2001. When Senator WARNER offered these same provisions as an amendment to this supplemental appropriations bill, the Senate had essentially the same debate it had on December 7th of last year. No Senator suggested that section 2015, which was included by voice vote during the final minutes of debate, was intended to alter the legislation that passed the Senate previously. The final vote in favor of the ASPA amendment, 75–19, reflected complete uniformity with the December 7, 2001 legislation.•

Mr. MCCONNELL. Madam President, the conference agreement includes bill language recommending that $1 million should be provided by the Administration for programs and activities which support the development of independent media in Pakistan. This action was taken by the conferees in recognition of the important role independent media will play in improving democracy in Pakistan. I am aware of the excellent work that has been done by Internews in this area and urge that their experience be used in the development of this project.

I also want to note that the agreement includes report language encouraging the United States Agency for International Development and the Department of State to provide $1 million for programs and activities that provide professional training for journalists from the Middle East. My colleagues and the Administration should know that Internews and Western Kentucky University have jointly conducted similar training for journalists from Indonesia and Southeast Asia. This has been a very successful partnership, and I expect that funding provided in the supplemental bill will be used to expand these efforts to the Middle East, particularly Egypt.

Mr. HARKIN. Madam President, I come to the floor today deeply disappointed by the outcome of the final agreement on the supplemental appropriations bill, which deleted the Senate recommendation of $400,000,000 for dislocated worker assistance under the Workforce Investment Act.

I know that to break the impasse with OMB to get this supplemental enacted, with vitally important items for national defense and homeland security, the leadership of the House and Senate had to agree to reduce the overall size of this supplemental. Our leadership was hard-pressed by the administration to accept unpopular cuts. Sadly, the final agreement eliminated all supplemental funding for dislocated worker assistance.

Most disturbing was the elimination of the $110,000,000 component which had been requested by the administration, and included in both House and Senate versions of the supplemental, to restore last year's rescission of dislocated worker funding. This rescission was enacted when it appeared there was sufficient unspent carryover funding in a brandnew workforce system, and Congress needed to offset an emergency supplemental for Low-Income Home Energy Assistance. Since that time, spending by local workforce agencies has accelerated, while the economic downturn has resulted in a continuing, nagging rise in unemployment. In the last year, more than 2 million workers have lost their jobs.

Fortunately, July marks the beginning of a new program year under the Workforce Investment Act, and $1,549,000,000 in new dislocated worker funding will be available for the next 12 months. Of this amount, the law provides that the States receive $1,239,200,000, or 80 percent, with the remaining $309,800,000 available for the Secretary of Labor to target areas particularly hard hit by mass layoffs. Nevertheless, I am fearful that the deletion of supplemental funding will send the wrong message to local sponsors of job training projects that will cause them to slow down spending of funds that are so desperately needed by the growing numbers of dislocated workers. As chairman of the Labor-HHS-Education Appropriations Subcommittee, I intend to do my best to send a strong message that Workforce Investment Act funding will be maintained despite the attempt of the President to slash more than $500 million out of the fiscal year 2003 budget. At my recommendation, the Senate Appropriations Committee has fully restored these proposed cuts in the fiscal year 2003 budget, recommending a total of $5,633,364,000 for job

training for the program year beginning in July of 2003. We rejected the President's proposal to cut dislocated worker assistance by $177,500,000, maintaining the appropriation at $1,549,000,000. We also fully restored the President's proposed cuts of $362,000,000 in youth job training programs, recognizing that young adults, ages 16 to 24, have been disproportionately affected by the decline in total employment over the past year. I wish we could have done more, but our subcommittee's allocation was extremely tight.

In conclusion, let me say I am not at all satisfied with the level of resources devoted to employment and training services, and I intend to work with my colleagues to explore every means to further augment assistance for the more than 8 million Americans who are now unemployed.

Mr. MCCAIN. Madam President, I rise today to speak about the conference report for the Supplemental Appropriations bill for fiscal year 2002. When we debated the Senate version of this bill in June, I stated my strong opposition to any item included that was not for the stated purpose of the bill: the ''further recovery from and response to terrorist attacks on the United States.'' As I said before, using the guise of responding to the terrorist attacks of September 11th to spend federal funds on items that obviously have nothing to do with fighting terrorism is war profiteering.

The conference report before us today contains $28.9 billion in federal spending. That is about $1.8 billion over the President's budget request of $27.1 billion—a request, I might add, he made over three months ago—but at least it is lower than the $31.4 billion in the Senate-passed bill.

Even so, I have reviewed the conference report to determine whether the bill contains items that are low-priority, unnecessary, wasteful, or have not been appropriately reviewed in the normal, merit-based prioritization process. I understand that some of these provisions may be meritorious, or included in unfunded priority lists for certain agencies. However, I have listed them because they were not requested by the President or should not be considered an ''emergency'' for funding purposes on this bill or are unrelated to our war on terrorism and should be considered for funding in the regular appropriations process. All told, I have identified approximately $5 billion in such spending in the conference report.

Before I proceed, I want to especially commend the Director of the Office of Management and Budget, Mitch Daniels, for his valiant charge to reign-in the free-spending ways of Congressional appropriators. In this town, the louder the opposition gets, the more sense you are making, so keep up the good work Mr. Daniels—and let them howl.

In the absence of a Senate-passed budget resolution, we need fiscal discipline now more than ever. Where we once saw surpluses as far as the eye could see, now we have mounting deficits, a national debt clock that is again ticking, and both houses of Congress voting to raise the government's debt limit by $450 billion. You don't have to be a five-time Jeopardy winner to grasp the bottom line: With the tremendous demands on the federal budget today and with the coming retirement of the Baby Boom generation, we must be even more prudent about where we devote limited taxpayers' dollars.

According to the Congressional Budget Office, the government is running a deficit of $122 billion for the first nine months of this fiscal year, a sharp reversal from the $169 billion surplus recorded for the same period a year ago. And the Office of Management and Budget recently unveiled their mid-year review of the budget showing that there will be a $165 billion deficit for the entire fiscal year. It doesn't take an Nobel Prize-winning economist to conclude that at the rate we are increasing spending, this sizable deficit will increase proportionately in the years to follow.

It is unfortunate that in a time of war, my colleagues cannot curb their appetite for non-emergency, wasteful spending. At this moment, the national interest must prevail over politicians' parochial concerns. Unfortunately, as this conference report and the recent Farm Bill attests, this message has still not gotten through to Congress.

For example, the recent Farm Bill contained an astounding $83 billion above the baseline in new spending for farm programs. This increase brought the total level of spending in the legislation to a mammoth $183 billion for the 10-year life of that bill. It ranks amongst the most expensive in recent history for farm legislation. As has been the trend of previous farm bills, this legislation lacked any payment restrictions to prevent most of the subsidy funding from continuing to benefit large farms and agribusinesses. Widely available information has also shown the overwhelming disparity of farm payment distributions. The General Accounting Office has shown that over 80 percent of farm payments primarily benefited large and medium-sized farms. Other studies have similarly found that the top 10 percent of big farmers and agribusiness consumed about 80 percent of farm benefits, leaving small farmers out in the cold. And yet, despite the evidence of the great inequity in distribution of the farm payments and their whopping price tag, the Senate passed it by a vote of 64–35.

Now the bulk of the supplemental conference report does contain provisions that have been designated as emergencies in response to the terrorist attacks of September 11th, but the story doesn't end there, Mr. President. Can anyone say with a straight face that everything in this conference report, which is officially titled the ''2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States,'' is directly related to the bill's stated purpose?

There is a long list of items under the Commerce Committee's jurisdiction that were not requested by the President or have been earmarked.

I am particularly concerned about the funding allocation and directives made by the appropriators with respect to the Transportation Security Administration, TSA. The funding level provided falls short of the President's request for $4.4 billion. Further, the conference agreement would take away the TSA's flexibility to allocate the funds to areas its considers to be transportation security priorities and instead earmarks nearly $1 billion for expenditures considered important to the appropriators.

While these directives may not sound unreasonable, much of the funding is being directed toward unauthorized programs. How do the appropriators know if these are the most important transportation security priorities and that the level of funding they provided is correct?

The conference report goes so far as to prohibit TSA from using federal funds to recruit or hire the personnel the Administration says it needs to meet the statutory directives in the Aviation Security Act, including the directive to, by year end, inspect all baggage. If we do not give them the resources, how can we possibly expect the TSA to meet its statutory directives?

Yesterday, Secretary Mineta testified before the House Aviation Subcommittee expressing grave concerns over the fact that TSA is not being provided its full request and that the earmarks will have a serious impact on TSA's ability to meet its statutory obligations with regard to baggage screening and other directives. Specifically, Secretary Mineta said in his prepared statement:

> The Administration's Emergency Supplemental request was the amount we needed to do the job. No more, no less. Last Friday, the appropriations Conference Committee voted to cut $1 billion from the $4.4 billion requested by President Bush and to impose new restrictions on our ability to get the job done. Here are five facts about the Conference report:
>
> First, it eliminates $550 million off the top; second, it sets aside $480 million in a so-called contingency fund that may not be available to TSA; third, it imposes $445 million in numerous earmarks not requested or supported by the Administration; fourth, it limits the total number of full-time TSA employees to 45,000—at least 20,000 employees short of what TSA needs to meet its statutory mission; and finally, report language severely restricts my discretionary authority to manage TSA.
>
> In short: TSA's budget was cut by at least $1 billion, possibly up to $1.5 billion. That is a whopping 34 percent cut from the President's request.
>
> Here is the dilemma Congress has created. You have not yet changed TSA's mission,

yet the budget to do the job is apparently on the way to being radically diminished while new restrictions and mandates are being imposed. What can be done? The amount of money Congress is about to approve simply will not support the mandates and timetables for aviation security that Congress set last Fall for TSA.

Less money with no flexibility means fewer TSA employees, less equipment, longer lines, delay in reducing the hassle factor at airports, and/or diminished security at our nation's airports. Frankly, these conflicting signals sent by Congress have forced us to regroup and revise the TSA business plan. That will likely take several more weeks. It will involve complex negotiations, and a review of literally thousands of TSA commitments and plans.

These are not my words. These are the words of the Secretary of Transportation. I hope my colleagues pay close attention to the Secretary's concerns. When the TSA is unable to meet its statutory deadlines and fully address critical security issues, we should all know it will largely come back to this funding measure.

Other questionable provisions regarding the TSA should also be mentioned. For example, in the Statement of Managers, the appropriators have earmarked money for the field testing of a particular security technology referred to as Pulsed Fast Neutron Analysis (PFNA). There is only one company that has developed this technology: Ancore Corporation of Santa Clara, California. Unfortunately, earlier this month, the National Research Council (NRC), concluded that PFNA is not ready for airport deployment or testing. Even though the main role for PFNA is the detection of explosives in full cargo containers, the appropriators are directing money for field testing on checked bags. This earmark could be a total waste of critical research money that should be contributing to our effort to increase aviation security.

Further, the Statement of Managers directs that the TSA ''be attentive to the needs'' of Seattle-Tacoma International Airport, Anchorage International Airport, and Kansas City International Airport when allocating resources provided above the Administration's request for the costs of physical modifications of airports for installing explosive detection systems. This directive is just another thinly veiled attempt at earmarking. I am sure there are many airports that have significant needs in terms of physical alterations that must be made to permit the effective use of bomb detection machines. We should not elevate three airports for special attention. The TSA should be attentive to the needs of all airports and should have the flexibility to establish priorities on how best to meet those needs.

I note that the conference report would take $150 million out of the Airport and Airway Trust Fund to reimburse airports for costs associated with new security requirements imposed on or after September 11. Let me point out there is no statutory authorization to use the Trust Fund for such purposes, nor was this funding requested by the President. While I'm not opposed to reimbursing airports, if it is for emergency purposes it should come out of the General Fund, as was authorized in last year's aviation security bill. Once again, the jurisdiction of the Commerce Committee is being circumvented.

It comes as no surprise that there is funding in the bill for Amtrak $205 million to keep Amtrak operating through September. We all know Amtrak is again in financial crisis, nearly $4.6 billion in debt. Amtrak's independent accountant concluded this year—after 31 years of losses—that a company that loses over a billion dollars annually is not a going concern. Imagine. The upshot is that Amtrak hasn't been able to access a line of credit from its banker, so once again, Congress must make up the shortfall.

I accept, although reluctantly, that Congress must provide assistance. It would not be in the best interest of the country for Amtrak to shut down its entire system in the next few weeks, particularly since Amtrak has not prepared any type of contingency plan to keep its corridor trains, which are paid for by the states, and commuter operations, which are also paid by the states, in operation even if it were to shut down its intercity service. But I regret that the conferees opted to give more money directly to Amtrak in the form of a straight appropriation.

After providing a $100 million loan earlier this month, the Administration requested that it be allowed to provide Amtrak another loan in the amount of $170 million. By providing a loan rather than a grant, the Administration could better control how the funds are used and at least try to protect the interests of the American taxpayers. Instead, Amtrak is being given another infusion of cash without any real restrictions on how it is spent.

Not only are we not holding Amtrak and its Board of Directors responsible for the current crisis, we're not even making an attempt to ensure these funds are spent wisely. I question the need to expend emergency funds for planning a new route to Las Vegas or investing in high-speed rail projects when the Northeast Corridor has a capital backlog of over $5 billion and the tunnels under New York's Penn Station need $1 billion in safety and reliability improvements. But Amtrak is spending its emergency funds on the Las Vegas route and other projects that sure don't sound like emergency expenditures to me.

While I support the intent of the conferees to ensure that Amtrak provides Congress the same information it is now required to supply DOT as a condition of its $100 million loan, I believe this information should also be coming to the authorization committees, not just the appropriators. The Senate Commerce Committee and the House Transportation and Infrastructure Committee are responsible for setting policy with respect to Amtrak not the Appropriations Committees.

Perhaps one of the more egregious provisions in the conference report deals with earmarked highway projects. My colleagues may recall the enormous controversy raised late last year when the appropriators took the unprecedented action in the FY 2002 DOT Appropriations Bill in which every state lost a portion of their highway funding that was to be allocated by formula under the Transportation Equity Act for the 21st Century, TEA–21. The appropriators redirected the states' formula funding to projects primarily in the appropriators' home states. Well, they are at it once again.

The conference report includes language making eligible 49 projects earmarked in the FY 2002 DOT Appropriations Bill that, under TEA–21, are not eligible to receive the earmarked funds. It is very troubling that the authorizing Committee of jurisdiction is not more concerned about maintaining the integrity of the multi-year highway funding formula law. Even more than I, the members whose states lost the predominant share of their formula and RABA funds to projects in the appropriators' states, should be vehemently objecting to this latest overreach.

Does anyone even know how their state fared as a result of the appropriators' handiwork last year? Of course, it should come as no surprise that the big winner was the state of West Virginia, which received $96.7 million in highway funding earmarks through the funding re-directives. This is followed by Kentucky which received $70 million; Washington which received $61 million; Mississippi which received $60.7 million; and Alabama which received $60.6 million.

Compare this to other states, such as Delaware, which received $100,000 but suffered a reduction of its formula funds of $2.496 million. Many other states also took substantial hits because of the appropriators' funding redirection efforts, including:

State	New Earmarks (millions)	Cut in Formula/RABA funds (millions)
Wyoming	+$1	−$4.387
Georgia	+8.2	−22.4
Michigan	+17.3	−21.397
New Jersey	+16.1	−18.153
North Carolina	+15.9	−17.598
North Dakota	+2.9	−3.684
Ohio	+20.5	−24.624
Oregon	+7.750	−9.815
Pennsylvania	+13.97	−40.325
Tennessee	+10.6	−16.656

I will ask at the end of my remarks that two charts showing the winners and losers based on information provided by the Federal Highway Administration be printed in the RECORD. I will also include the list of the projects being deemed TEA–21 eligible projects in the conference report.

The conference report would also ensure funding distributed under the highway trust fund for the upcoming fiscal year will not be reduced by the

statutory requirements under TEA–21 to adjust the program based on adjustments to the revenue aligned budget authority provisions of the Act. Instead of following the law, the conference report provides for an additional $4.4 billion over the President's budget request for fiscal year 2003. I think all of us have known this funding would be provided even though the President's budget request actually fulfilled the requirements that so many members voted for when TEA–21 was passed in 1998. But why does this provision need to be included in this emergency supplemental legislation?

With respect to funding provided for the Coast Guard, the conference report directs $12.1 million, above the President's request of $26 million, to acquire, repair, renovate or improve vessels, small boats and related equipment. The Statement of Managers further indicates the funding shall be used for the procurement of additional 87-foot Barracuda class coastal patrol boats. The conference report further directs $200 million, not requested by the President, to acquire new aircraft and increase aviation capability; and $50.171 million above the President's request of $12 million, for shore facilities and aids to navigation facilities. Unfortunately, we are provided little other information to explain the purpose of these funds. $200 million is a significant funding level and we have no clear understanding of this provision.

The conference report provides $33.1 million over the President's request for ''Scientific and Technical Research and Services'' for emergency expenses resulting from new homeland security activities and increased security requirements of which $20 million is for a cyber-security initiative.

It is also worth noting that a provision pertaining to the Advanced Technology Program at the Department of Commerce was also included. The supplemental bill would change the program which currently imposes a ceiling of $60.7 million on the amount of new grants that can be awarded by the end of the fiscal year, to establishing a floor of $60.7 million that can be awarded in new grants by the end fiscal year 2002. The President did not request this change and why it is necessary, I do not know.

The conference report also includes $400 million for election administration reform, contingent upon completion of the ongoing conference on election reform legislation. Since it is highly unlikely a conference agreement can be reached before the August recess, I question why we need to include this funding in this emergency supplemental measure. Instead, we should appropriate the funding upon completion of the conference report and as part of the Fiscal Year 2003 Appropriations process.

The conference report would provide so-called technical corrections for the Fisheries Finance Program Account. Specifically, it would authorize up to $5 million for Individual Fishing Quota Loans and up to $19 million for traditional loans under the direct loan program authorized by the Merchant Marine Act of 1926. As I mentioned when the Senate considered the supplemental in June, these are authorizations which have not been considered by the Senate Commerce Committee. Further, with some limited exceptions, Individual Fishing Quota Programs are not allowed under current law. Therefore, this funding will only help fisheries where a Quota Program already exists, such as the halibut fishery in Alaska.

The conference report also amends the Oceans Act of 2000 to extend the deadline for the Ocean Commission's report by an additional 11 months. The Oceans Act of 2000 was drafted in the Commerce Committee and any amendments should start there, yet we were not even consulted on this provision.

The conference report directs $2.5 million of funding provided in the Commerce, Justice State Appropriations Bill for Fiscal Year 2002 to now be dedicated to conducting coral mapping in the waters of the Hawaiian Islands. We debated this issue on the floor in June. While my amendment to strike the earmark failed, that doesn't mean the funding proposal is meritorious. This directive was not requested by the President and the funding would be earmarked for the National Defense Center of Excellence for Research in Ocean Sciences.

The conference report also includes $2 million to address what the appropriators call ''critical mapping and charting backlog requirements'' and $2.8 million for backup capability of the National Ocean and Atmospheric Administration, NOAA, satellite products and services. None of this funding was requested by the President and even though it falls within the jurisdiction of the Senate Commerce Committee, again we were not consulted. Moreover, this funding has no relation that I can see to address emergency homeland security needs which is the purported purpose of this bill.

The conference report also includes a total of $11 million for economic assistance to New England fishermen and fishing communities. This funding was not requested by the President, although I understand it is in response to unforeseen circumstances resulting from a federal court order which restricts the number of days that fisherman can fish. The Statement of Managers then earmarks that funding based on the Senate report, as follows:

Maine, $2 million; New Hampshire, $2 million; Massachusetts, $5.5 million; and Rhode Island, $1.5 million.

The conference report places a limitation on apparel articles that are eligible for preferential treatment under the Caribbean Basin Initiative, CBI, and the Andean Trade Preferences Act, ATPA. Under this provision, all dyeing, printing, and finishing of knit and woven fabrics must take place in the United States in order for nations under CBI and ATPA to benefit from reduced-rate treatment.

This measure is one in a series of protectionist actions recently undertaken by the United States. The U.S. textile industry has carved out a protective shell around itself to avoid competition at all costs. In this case, the Caribbean Basin and the Andean region nations are the victims along with American consumers.

Due to recent political and special interest pressures, House appropriators inserted this protectionist provision into the supplemental limiting the dyeing, printing and finishing of certain apparel articles to United States manufacturers, with no objection from the Senate appropriators. Caribbean nations received greater access to the United States' apparel market through the Caribbean Basin Economic Recovery Act. This law granted the Caribbean Basin nations similar privileges as those afforded Mexico under the North American Free Trade Agreement, NAFTA.

This provision will scale back the Caribbean Basin Initiative, preventing their growing industry access to the U.S. apparel market. In addition, it would preclude the Andean Trade Preferences Act, ATPA, beneficiary nations from entering the apparel market to begin with.

Moreover, this is yet another example of the appropriators legislating on an appropriations bill. While a trade bill that would, among other things, extend and expand the expired ATPA, sits mired in conference, the appropriators have reached their own conclusions regarding provisions of that bill which would hopefully allow Andean beneficiary nations greater access to U.S. apparel markets. Despite a letter objecting to the actions of the appropriators from the Chairman and Ranking Member of the Senate Finance Committee, the Committee that holds jurisdiction over ATPA, this provision remained.

This is an unfortunate turn of events that is becoming all too common: Leaders of the U.S. rhetorically expounding their commitment to free trade while actively pursuing protectionist policies.

The reorganization of our armed services was, of course, an extremely important subject before September 11th, and it is all the more so now.

In the months ahead, no task before the Administration and the Congress will be more important or require greater care and deliberation than making the changes necessary to strengthen our national defense in this new, uncertain era. Needless to say, this transformation process will require enlightened, thoughtful leadership, and not the pork barreling of military funds, if we are to best serve America in this time of rapid change in the global security environment.

Again, I question the requirement for certain items in the defense portion of

this supplemental appropriations bill. We are waging war against a new enemy. The dangers in Afghanistan to our service members are real. However, I do not believe that our ''special forces'' units are threatened by any perceived torpedo attack that would cause the appropriators to include in the conference Report a provision to include $1 million for the Tripwire Torpedo Defense Program or $1 million for the Undersea Warfare Support Equipment AN/SLQ 25A.

The conference report improves on the Senate-passed language regarding U.S. policy in Colombia by providing the Departments of State and Defense with the authority to support the Colombian government's unified campaign against narcotics trafficking and terrorism. However, I regret that the final language imposes a burdensome requirement on the President of Colombia to commit in writing to a series of benchmarks regarding his policy and reform plans. I also regret that the conferees have seen fit to cut the President's peacekeeping requests by nearly $28 million—at a time when America's global presence, and the importance of standing shoulder to shoulder with our allies in defense of our common interests, matters.

I do applaud this legislation's requirement for reports setting forth a strategy for meeting the security needs of Afghanistan to ensure effective delivery of humanitarian aid, build the rule of law and civil order, and support the Afghan government's efforts to bring stability and security to its people. History shows that America cannot walk away from Afghanistan if we are to protect our interests there. Our first requirement in this post-war phase must be to help the Afghan government bring basic security and order to all parts of the country. America must do more, not less, to consolidate our victory in Afghanistan by helping to build an environment in which our values can flourish.

Let there be no doubt that this war will be long. Therefore, we should not frivolously spend today like there is no tomorrow. For when tomorrow comes, we must have the fiscal resources to not only fight this war to victory, but to provide for our nation's other priorities including tax relief for the lower- and middle-income Americans, adequate funding for Social Security and Medicare, and significant debt reduction.

I ask unanimous consent to print in the RECORD the information I earlier referenced.

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

FY2002 Designated Discretionay Projects -- Statutorily Ineligible

State	Project	Amount	State Total
Alabama	I-10 Irvington Interchange	$ 800,000	
	I-65 and Valley Dale Road interchanges	$ 8,000,000	$ 8,800,000
Arkansas	Great River Bridge	$ 7,500,000	$ 7,500,000
California	I-10 Riverside Avenue interchange	$ 500,000	
	I-5 Corridor arteries	$ 1,000,000	
	I-5 HOV/general purpose lanes	$ 4,000,000	
	Tippecanoe/I-10 interchange	$ 2,500,000	
	Gerald Desmond	$ 4,000,000	$ 12,000,000
Connecticut	Cross Road	$ 3,500,000	
	Peral Harbor Memorial Bridge	$ 5,000,000	$ 8,500,000
Florida	A. Max Brewer	$ 3,000,000	$ 3,000,000
Hawaii	Sand Island	$ 5,000,000	$ 5,000,000
Illinois	US-30 Morrison/Whiteside County expansion, IL	$ 750,000	$ 750,000
Iowa	US 34/Plattsmouth	$ 1,500,000	$ 1,500,000
Kansas	Topeka Avenue	$ 2,000,000	$ 2,000,000
Louisiana	I-49 southern extension from I-10	$ 1,000,000	
	I-12 interchange at LA 1088	$ 1,500,000	
	I-12/Northshore Blvd. interchange	$ 2,000,000	
	US 167/I-20 interchange	$ 1,000,000	
	Kerner	$ 1,000,000	
	Leeville	$ 3,000,000	$ 9,500,000
Maine	City of Brewer waterfront redevelopment shoreline stablilization, ME	$ 1,000,000	
	I-95 Northern Maine	$ 4,500,000	
	I-295 Connector, Commercial Street	$ 500,000	$ 6,000,000
Massachusetts	Padanarim	$ 1,500,000	$ 1,500,000
Michigan	Pennsylvania Avenue	$ 3,300,000	$ 3,300,000
Nevada	I-215 Southern Beltway to Henderson	$ 500,000	$ 500,000
New Jersey	Sandy Hook ferry terminal, NJ	$ 1,000,000	
	Jersey City Pier redevelopment and terminal construction project	$ 2,000,000	$ 3,000,000
New York	145th Street	$ 5,800,000	
	I-84/Delaware	$ 2,000,000	
	Warren County scenic byway	$ 30,000	$ 7,830,000
Ohio	Cleveland Trans-Erie Ferry Service	$ 800,000	$ 800,000
Oklahoma	I-40 crosstown expressway realignment	$ 5,500,000	$ 5,500,000
Pennsylvania	I-180 Lycoming Mall Road interchange	$ 2,000,000	
	I-79/SR 910 interchange	$ 250,000	
	I-79/Warrendale Technology Park Interchange	$ 1,750,000	
	I-80 Exit at Stoney Hollow Road	$ 3,000,000	
	State Route 0039 & I-81interchange	$ 750,000	
	Route 113 Heritage Corridor, PA	$ 170,000	$ 7,920,000
Rhode Island	Sand Point dock, RI	$ 250,000	$ 250,000
South Dakota	US 61/Missouri River	$ 1,000,000	$ 1,000,000
Texas	Leon River	$ 1,500,000	$ 1,500,000
Vermont	Blueberry Lake road improvements, Green Mountain National Forest, VT	$ 500,000	
	Missiaquoi	$ 4,000,000	$ 4,500,000
Washington	Oak Harbor Municipal Pier terminal, WA	$ 200,000	$ 200,000
West Virginia	I-79 Bridgeport to Meadowbrook	$ 10,000,000	
	I-79 Connector	$ 4,800,000	
	I-81 South Martinsburg I/C Bridge, Berkeley County	$ 7,000,000	$ 21,800,000
TOTAL		**$ 124,150,000**	**$ 124,150,000**

State-by-State Earmarks of Revenue Aligned Budget Authority (RABA) Funding in the Transportation Appropriations Act Shifted from States Highway Formula Programs & Allocated Highway Programs

(Chart reflects total earmarked amount and number of projects per state per program)

	Ferry Boats & Ferry Terminal Facilities	National Corridor Planning & Development & Corridor Border Infrastructure	Transp. & Community & System Preservation Pilot Program	Interstate Maintenance Discretionary	Bridge Discretionary	Public Lands Discretionary	Total for Allocated Programs Earmarks with $ Bolstered by RABA cuts to State formula programs & Allocated Programs	Total Number of Projects
AL		$27 m; (6)	$24 m; (13)	$ 8.8 m; (2)		$ .825; (2)	$60.625 million	23 projects
AK	$10 m; (1)	$16 m; (2)	$ 1.6 m; (2)			$ 6.8 m; (7)	$34.4 million	12 projects
AZ						$11 m; (2)	$11 million	2 projects
AR		$27.750 m; (4)	$ 3.250 m; (3)		$ 7.5 m; (1)		$38.5 million	8 projects
CA	$ 2.9 m; (3)	$22.5 m; (8)	$16.925 m; (18)	$ 8 m; (4)	$ 6.3 m; (3)	$10 m; (4)	$66.625 million	40 projects
CO			$ 2.250 m: (2)	$ 5 m ; (1)		$ 4.2 m; (2)	$11.45 million	5 projects
CT	$ 1.5 m; (1)	$2.3 m; (1)	$ 4.750 m (5)	$1.5 m; (1)	$ 8.5 m; (2)		$18.55 million	10 projects
DE			$ .100; (1)				$ .100	1 project
FL	$ 1.6 m; (3)	$28.5 m; (4)	$13 m; (10)	$ 2.5 m; (1)	$ 3 m; (1)	$ 1 m; (1)	$49.6 million	20 projects
GA	$ 1 m; (1)	$ 1 m; (1)	$ 6.2 m; (2)				$8.2 million	4 projects
HI			$ 6 m; (2)		$ 5 m; (1)	$ 6 m; (1)	$17 million	4 projects
ID		$10 m; (2)	$ .105; (1)			$ 4.5 m; (2)	$14.605 million	5 projects
IL		$17.5 m; (4)	$ 6.420 m; (10)		$ 6 m; (1)	$ .750; (1)	$30.67 million	16 projects
IN		$ 7.836 m; (5)	$ 3.915 m; (4)	$ 2.5m; (1) (includes KY)			$14.251 million	10 projects
IA		$ .700 m; (1)	$ 3 m; (1)	$ 6 m; (1)	$ 1.5 m; (1)		$11.2 million	4 projects
KS		$ 5 m; (2)	$ 2.6 m; (2)		$ 2 m; (1)	$ 1.5 m; (1)	$11.1 million	6 projects
KY		$43.220 m; (18)	$18.567 m; (15)	$ 2.375 m; (2)		$ 5.895 m; (4)	$70 .057 million	39 projects
LA	$ 1.2 m; (1)	$30.8 m; (5)	$1.665 m; (4)	$ 5.5 m; (4)	$ 4 m; (2)		$43.165 million	16 projects
ME	$ 1 m; (1)	$ 3.5 m; (1)	$ 1.6 m; (2)	$ 5 m; (2)	$5 m; (1)	$ 1 m; (2)	$17.1 million	9 projects
MD		$ 1 m; (1)	$ 3.5 m; (2)	$ 8 m; (1)			$12.5 million	4 projects
MA	$ 1.45 m; (1)	$ 5.5 m; (2)	$ 2.3 m; (5)		$ 3 m; (2)	$ .963; (2)	$13.213 million	12 projects
MI		$ 9 m; (1)	$ 1.5 m; (2)	$ 3.5 m; (1)	$ 3.3 m; (1)		$17.3 million	5 projects
MN		$10 m; (2)	$ 7.350 m; (3)		$ 7 m; (1)		$24.35 million	6 projects
MS	$ .500; (1)	$34.500 m; (7)	$ 8.4 m; (5)	$ 8.9 m; (1)		$ 8.4 m; (2)	$60.70 million	16 projects
MO		$15.250 m; (5)	$ 8 m; (2)	$20 m; (4)	$ 2.5 m; (2)		$45.75 million	13 projects
MT		$ 3.5 m; (1)	$ 2.9 m; (4)	$ 1 m; (1)		$10.9 m; (6)	$18.3 million	12 projects
NE			$ 4.6 m; (3)			$ .325; (1)	$4.925 million	4 projects
NV				$ .500; (1)		$12 m; (2)	$12.5 million	3 projects
NH		$ 1 m; (1)	$ 3.550 m; (5)				$4.550 million	6 projects
NJ	$ 3 m; (2)		$ 7.150 m; (11)		$ 5 m; (2)	$ 1 m; (1)	$16.150 million	16 projects
NM		$ 1 m; (1)	$ 5 m; (1)	$ 6.5 m; (2)		$ 3.150 m; (4)	$15.65 million	8 projects
NY	$ 9.34 m; (8)	$10.350 m; (4)	$16.275 m; (19)		$ 9.6 m; (3)	$ .280; (1)	$45.845 million	35 projects
NC	$ 2.139 m; (2)	$3.5 m; (1)	$ 5.35 m; (5)	$ 5 m; (2)			$15.989 million	10 projects
ND			$ 1.5 m; (2)			$ 1.4 m; (2)	$2.9 million	4 projects
OH	$ 1.3 m; (2)	$ 7 m; (3)	$ 7.5 m; (4)	$ 1.5 m; (2)	$ 2.750 m; (2)		$20.5 million	13 projects
OK		$ 1.5 m; (1)	$ 1.450 m; (3)	$ 5.5 m; (1)			$8.45 million	5 projects
OR		$ 5 m; (1)		$ 1.0 m; (1)		$ 1.750 m; (1)	$7.750 million	3 projects
PA	$ 2 m; (2)	$1 m (includes NY); $.550;(3)	$ 2.5 m: (4)	$ 7.750 m; (5)		$ .170; (1)	$13.97 million	15 projects
RI	$ .250; (1)		$ 1 m; (1)	$ 4 m; (2)	$ 4 m; (1)	$ 2.150 m; (2)	$11.4 million	7 projects
SC			$17 m; (5)		$ 7 m; (1)		$24 million	6 projects
SD		$12 m; (1)	$ .250; (2)		$ 1 m; (1)	$ 5.650 m; (3)	$18.9 million	7 projects
TN		$ 1 m; (1)	$ 9.6 m; (5)				$10.6 million	6 projects
TX	$ .200; (1)	$20.4 m; (9)	$ 6.790 m; (9)	$25.9 m; (5)	$ 1.5 m; (1)	$ 5.5 m; (2)	$60.29 million	27 projects
UT			$ 2 m; (1)	$ 6 m; (2)		$ 2.250 m; (3)	$10.250 million	6 projects
VT			$ 4.5 m; (3)		$ 4 m; (1)	$ .500; (1)	$9 million	5 projects
VA		$ .600; (2)	$2.480 m; (4)			$14.150 m; (6)	$17.23 million	12 projects
WA	$ 4.2 m; (2)	$34 m; (5)	$10.3 m; (6)	$ 2 m; (2)	$10.5 m; (3)		$61 million	18 projects
WV		$54 m; (4)	$ .400; (1)	$21.8 m; (3)	$17 m; (2)	$ 3.5 m; (1)	$96.7 million	11 projects
WI		$17 m; (3)	$13.5 m; (4)		$ 7.5 m; (1)		$38 million	8 projects
WY			$ 1 m; (1)				$ 1 million	1 project
DC			$ 2.5 m; (2)				$2.5 million	2 projects
TOTAL FY02 Approps	$43,579,000	$492,256,600	$276,092,600	$176,025,000	$134,450,000*	$127,508,000	$1,249,910,600	540 projects

TOTAL FY02 Approps	$43,579,000	$492,256,000	$276,092,600	$176,025,000	$134,450,000*	$127,508,000	$1,249,910,600	540 projects
FY02 Funding includes:								
TEA21 auth. for FY02	$18,000,000	$140,000,000	$25,000,000	$100,000,000	$100,000,000	$82,385,400	$465,385,400	
TEA-21 RABA for FY02	$ 5,059,012	$ 18,633,932	$3,324,822	$13,310,772	$13,310,772	$0	$ 53, 639,310	
**Additional RABA $ per DOT Approps.	$20,519,988	$333,622,068	$247,767,778	$62,714,228	$21,139,229	$45,122,600	$730,885,890	
	33 projects; 17 states	123 projects; 38 states	221 projects; 47 states + DC	55 projects; 27 states	*38 projects; 25 states	70 projects; 30 states	100% Earmarked	

*Chart does not include two earmarks in the Bridge Discretionary Program (totaling $28 million) which are not designated for site/state specific projects.

**Additional RABA funding was also provided for Long-term Pavement ($10,000,000) and for State Border Infrastructure ($56,300,000) programs, but is not designated for site/state specific projects.

Note, depending on final computation of the funds available to stay within the total obligational authority available for FY'02, the actual amounts distributed, in all likelihood, will be less than the specific amounts shown.

Total RABA dollars shifted: $825,185,890 (comprised of $449,445,030 from state highway formula programs and $375,850,860 from allocated programs (including $236,671,037 from High Priority Projects and $139,179,823 from other allocated programs). Note, it can also be viewed in the context of this chart as $730,885,890 + $28,000,000 + $10,000,000 + 56,300,000 = $825,185,890.

State-by-State Impact of Transportation Appropriations Cuts of Revenue Aligned Budget Authority (RABA) Funding from State Highway Formula Programs & TEA-21 High Priority Projects

	RABA Reductions from State Highway Formula Programs	RABA Reductions from TEA- 21 Projects	TOTAL RABA reductions: State Highway Formula & TEA 21 Projects
AL	(8,461,327)	(5,190,512)	(13,651,839)
AK	(5,829,941)	(1,741,836)	(7,571,777)
AZ	(7,729,419)	(1,531,711)	(9,261,130)
AR	(5,955,806)	(3,875,677)	(9,871,483)
CA	(41,475,828)	(22,334,954)	(63,810,782)
CO	(6,092,240)	(1,721,986)	(7,814,226)
CT	(7,149,904)	(3,237,793)	(10,387,697)
DE	(2,268,322)	(224,234)	(2,492,556)
FL	(20,220,425)	(7,154,508)	(27,374,933)
GA	(15,251,592)	(7,177,923)	(22,429,515)
HI	(2,171,286)	(1,286,515)	(3,457,801)
ID	(3,112,998)	(2,964,757)	(6,077,755)
IL	(13,965,042)	(9,389,587)	(23,354,629)
IN	(10,772,904)	(5,111,418)	(15,884,322)
IA	(5,489,664)	(2,762,724)	(8,252,388)
KS	(4,893,976)	(2,812,739)	(7,706,715)
KY	(7,342,459)	(3,842,350)	(11,184,809)
LA	(7,652,445)	(4,475,708)	(12,128,153)
ME	(2,247,308)	(1,188,431)	(3,435,739)
MD	(7,989,589)	(3,340,023)	(11,329,612)
MA	(8,220,727)	(5,584,742)	(13,805,469)
MI	(13,612,972)	(7,784,478)	(21,397,450)
MN	(6,767,624)	(4,508,409)	(11,276,033)
MS	(5,923,344)	(2,914,185)	(8,837,529)
MO	(10,584,023)	(6,488,102)	(17,072,125)
MT	(5,123,563)	(503,313)	(5,626,876)
NE	(3,367,832)	(618,977)	(3,986,809)
NV	(3,104,508)	(860,500)	(3,965,008)
NH	(2,397,302)	(1,715,640)	(4,112,942)
NJ	(10,818,293)	(7,334,770)	(18,153,063)
NM	(4,570,032)	(2,016,540)	(6,586,572)
NY	(22,418,882)	(15,062,102)	(37,480,984)
NC	(11,947,529)	(5,651,117)	(17,598,646)
ND	(3,162,499)	(521,848)	(3,684,347)
OH	(15,893,797)	(8,731,177)	(24,624,974)
OK	(6,534,095)	(3,018,793)	(9,552,888)
OR	(5,434,066)	(4,381,392)	(9,815,458)
PA	(20,095,856)	(20,229,756)	(40,325,612)
RI	(2,755,082)	(728,053)	(3,483,135)
SC	(7,883,348)	(2,694,477)	(10,577,825)
SD	(3,304,789)	(2,153,254)	(5,458,043)
TN	(11,222,191)	(5,434,368)	(16,656,559)
TX	(33,430,729)	(12,506,040)	(45,936,769)
UT	(3,266,491)	(2,040,562)	(5,307,053)
VT	(2,301,880)	(535,249)	(2,837,129)
VA	(13,052,845)	(5,093,819)	(18,146,664)
WA	(7,348,768)	(5,020,263)	(12,369,031)
WV	(5,010,811)	(4,620,722)	(9,631,533)
WI	(8,393,502)	(4,126,031)	(12,519,533)
WY	(3,656,131)	(731,619)	(4,387,750)
DC	(1,659,044)	(785,066)	(2,444,110)
Total	(449,335,030)	(235,760,750)	(685,095,780)[1]

[1]Chart does not include $910,287 in RABA cut from American Samoa, Puerto Rico, and the Virgin Islands. Further, Chart does not include $139,179,823 in RABA cut from other allocated Federal-Aid Highway Programs which are discretionary programs that cannot be broken out on a state-by-state basis.

Total RABA dollars shifted: $825,185,890 (comprised of $685,095,780 + $910,287 + $139,179,823)

Mr. GRASSLEY. Madam President, today, I rise to object to the Dyeing and Finishing Provision found in the 2002 supplemental appropriations bill, H.R. 4775, that is now going through the conference process within the Senate and will soon be voted on by this body.

This provision is of serious concern to me because it falls within the jurisdiction of the Finance Committee and it was not voted on nor reviewed by the committee.

Senator BAUCUS and I sent a joint letter in June expressing our deep concern about the inclusion of this provision in the bill and asked the chairman of the Appropriations Committee to oppose this provision due to our jurisdiction concerns.

Section 1405 of the House bill pertains language that will amend two U.S. trade preference programs: the Caribbean Basin Economic Recovery Act and the Andean Trade Preference Act.

The amendment requires certain fabric to be dyed and finished in the United States in order for apparel sewn from such fabric in the Carribean or Andean region to enter the United States duty-free.

Regardless of how my colleagues feel about the requirement for fabric to be dyed and finished in the United States to qualify for duty-free treatment they should respect the jurisdiction of the Finance Committee under the trade laws of this Congress.

Our committee has oversight over carefully balanced programs that were developed after years of close study and deliberations in the Finance Committee and the House Committee on Ways and Means.

During the debate of the Bipartisan Trade Act of 2002 when Senator BYRD asked for Senator BAUCUS and I to respect the jurisdiction of the Appropriations Committee by striking all authorization language in the trade bill while we were debating the legislation on the floor.

Senator BAUCUS and I addressed the Senator's concerns by stopping the debate and revising the legislation so as to not encroach upon the jurisdiction of the Appropriations Committee.

I am deeply dismayed about the Finance Committees' concerns not seriously being considered about the dyeing and finishing provision which is clearly in our jurisdiction.

I would hope my colleagues would be more considerate of the problem we have with the House being able to slip provisions in the supplemental hoping to sneak it through the legislative process otherwise the legislative process will become a free-for-all.

If the provision is a good piece of legislation then my colleagues in the House should be willing to have an open dialogue with the Finance Committee members and address our concerns.

Alarms should go off when people try to slip legislation by hoping that no one will catch it.

I am disappointed because this is not the way we are suppose to do business around here.

There are several good reasons why committees were established and given jurisdiction over specific issues.

The Finance Committee members are the experts on trade, therefore all issues involving trade should come through our committee.

I am just asking my colleagues to respect the rules established by the Senate. I am disappointed that the chairman of the Appropriations Committee did not respect our jurisdiction.

This is bad policy and I oppose it.

I also want to strongly emphasize how important it is that we do not set a precedent allowing Members to thwart the committee process and smuggle legislation through the Senate under the radar screen.

Mr. STEVENS. Madam President, a provision I have worked on with my Alaska colleagues, Congressman DON YOUNG and Senator FRANK MURKOWSKI, is included in this bill as section 3002. In conversations with air carriers in Alaska and the Postal Service, we have found that there are serious problems with mail delivery to rural Alaska under the current bypass mail system. This provision, titled the Rural Service Improvement Act of 2002, is derived from S. 1713 in the Senate and H.R. 3444 in the House. It contains several technical changes that will resolve these problems.

The bypass mail system is unique to my State: It was created by section 5402 of title 39 of the U.S. Code, and attempts to ensure reliable and affordable passenger service and the delivery of food, goods, and basic consumer necessities to rural Alaska communities.

I have stated on numerous occasions during Postal Service hearings before the Senate Governmental Affairs Committee that the establishment and maintenance of post offices and post roads applies to my State as it does the rest of the Union. As a member of the committee with oversight over Postal operations, I take the responsibilities of the Postal Service very seriously. As an Alaskan, I am even more concerned. Almost every item found on the shelf of a rural Alaska general store arrives via the bypass mail system. This system was created through legislation originated by the Senate in 1970 and today it is the lifeline of rural Alaska.

In addition to ensuring delivery of food and goods, the bypass mail system assured that passenger seats would be available to rural Alaskans. The revenues paid to air carriers to transport the bypass mail helps underwrite the cost of this passenger service. The Federal Government's vast ownership of lands in Alaska and the limited access to those lands means that air transportation is the only way to reach most rural communities in Alaska. We are prohibited by the Federal Government from building roads to connect most of our communities and this system assures access by air.

In recent years there has been an explosion in the number of carriers eligible to carry bypass mail in Alaska because the threshold requirements for eligibility have been very low. However, few of these new carriers operate in ways that reflect the intent behind the bypass mail program. Instead of providing air transportation to passengers, these carriers use the system to underwrite a portion of their total business plan. Other mail-only carriers use it as the basis of their entire operation. They provide little to no passenger service to Alaska's rural communities.

The bypass mail system is divided into two categories: mainline routes and bush routes. Mainline routes are flown by carriers operating larger aircraft capable of carrying many pallets of food and goods. These pallets usually weigh a minimum of 1,000 pounds. To be qualified as a mainline carrier under the current regulations, carriers must operate aircraft certified to carry at least 7,500 pounds of payload capacity. These mainline carriers take bypass mail from one of two acceptance points, Anchorage or Fairbanks, and carry it to ''hubs'' such as Bethel, Barrow, and Nome. From these hubs the mail is distributed to bush communities by smaller bush aircraft. To operate properly and efficiently the system needs healthy mainline and bush carriers.

The Rural Service Improvement Act of 2002 resolves many of the problems with mainline operations. It clarifies who is eligible to be a mainline carrier, stabilizes mainline markets, and supports increased passenger service. It limits the entry of new all-cargo carriers to mainline markets where current cargo service is deficient. This bill also gives existing carriers 30 days to correct problems with mail delivery, schedule adherence, or repeated mail damage that the Postal Service deems unacceptable. If no improvements are made new mainline carriers would be eligible to offer service on these routes.

In addition, the bill allows new carriers to enter otherwise closed mainline routes if they provide substantial passenger service. This determination will be made on a route-by-route basis. To qualify, a new carrier must regularly make available to the public at least 75 percent of the number of passenger seats on the largest carrier on a give route for 6 consecutive months. After a new carrier is certified as a mainline carrier it must carry 20 percent of the actual passengers on the route to remain qualified. Carriers will design their business plans around passenger service, not just bypass mail. This will enable the bypass mail system to fulfill our original intent: to provide mail and air transportation to Alaskans.

The bill also addresses a current problem on routes that receive subsidies from the Department of Transportation's Essential Air Service, EAS, program. Currently DOT establishes a

subsidy rate based on a combination of factors, including the size of the community, the desired level of service an show much revenue the EAS carrier can expect to earn from other sources. However, DOT has no role in determining how much mail is carried by EAS carriers. This act addresses this flaw by requiring all nonpriority mail and nonpriority bypass mail be tendered to the contracted EAS carrier on each route, as long as the needs of the Postal Service are being met. This will reduce the cost of the EAS program in Alaska and ensure mail is delivered in a timely fashion. First class and priority mail will still be carried by the Postal Service's preferred provides based on premium delivery standards on these routes.

This bill also ensures adequate passenger service for under served communities. Under this act, a new passenger carrier may immediately be tendered bypass mail on a mainline route if all passenger carriers operating under Federal Aviation Rules part 121 leave the market or no part 121 passenger service is available. These provisions mean that under such conditions a new 121 carrier will not have to wait 6 months to provide services. It will get bypass mail immediately in mainline markets with no passenger service. This change will provide mainline communities with quality passenger service as mail revenues underwrite passenger transportation.

In addition, this bill addresses a serious problem for rural Alaska. Currently, some rural markets are classified as mainline by the Postal service but have no mainline passenger or bypass mail service. This bill allows bush carriers currently serving those routes to continue carrying bypass mail even if a mainline carrier begins service there. The bush carriers will be paid the lower mainline rate which will reduce costs for the Postal Service while preserving existing passenger service on the those routes. To preserves bush passenger and non-mail freight service on rural routes, if a mainline carrier beings providing service on a traditional bush route, existing bush passenger and on-mail freight carriers may continue to receive bypass mail if they agree to be paid the lower mainline rate.

This act allows for equalization on those mainline routes with no current mainline service and on traditional bush routes where a mainline carrier enters. It specifically prohibits bush carriers from entering or operating on mainline routes with existing mainline service, except under specialized circumstances, to ensure that larger aircraft capable of carrying many pallets fly full to the hubs. The act allows the Postal Service to tender bypass mail to bush carriers on mainline routes with existing mainline service if three conditions are met. First, the bush carrier must meet the minimum technical requirements of the operating statute. Second, no similar service is available on the route by the existing mainline carriers. Third, the Postal Service determines that the tender of mail to a bush carrier on the mainline route will not decrease the efficiency of the hub or increase costs for the Postal Service. This test will be applied by the Postal Service on a case-by-case basis.

Another feature of the bill is the explicit authorization of ''composite equalization,'' to protect and enhance passenger service. Currently almost all bypass mail flows from an acceptance point to a hub and then on to a bush point. This act allows bush carriers to receive mail at the acceptance point for a direct flight to bush villages without first stopping in the hub. Bush carriers are paid based on what they would have flown to the hub point at the lower mainline rate and then based on what they would have flown from the hub point to the bush village at the lowest bush rate. The provision also recognizes routes where composite equalization or direct flights bypassing the hub exist today. The intent is to promote additional savings for the Postal Service and to preserve existing direct flights for rural Alaskan residents.

The act also allows for the creation of future routes at composite rates if carriers meet a four-part test. First, a carriers seeking tender at composite rates must meet the minimum passenger service requirements of the bill. Second, the carriers must qualify to be tendered mail in the hub point being bypassed by the proposed direct route. Third, the carrier must prove that carrying bypass mail on direct routes will not reduce the efficiency of the entire hub operations. Lastly, the Postal Service must determine that allowing the direct flight will save money for that portion of the system. The Postal Service will take into account the cost of flying the mail directly to the bush village from the acceptance point along with the cost of not flying the mail through the hub in terms of payments to other carriers, especially the mainline carriers.

The act restricts entry of new cargo-only capacity in mainline markets. All new mainline carriers must also meet the passenger requirements of the bill to be tendered mainline bypass mail. A carrier otherwise qualified to be tendered non-priority bypass mail on January 1, 2001, but not engaged in the regular carriage of mainline bypass mail on that date, is not qualified as an existing carrier. A carrier not qualified as a mainline carrier on January 1, 2001, which has since become qualified does not fulfill the definition of an existing carrier for the purposes of carrying mainline bypass mail. Likewise, a carrier that was tendered mainline bypass mail on January 1, 2001 in improperly sized aircraft does not qualify as an existing carrier.

The Rural Service Improvement Act of 2002 also resolves problems with bush community operations. Currently any carrier meeting very minimum qualifications may be tendered bush bypass mail. In a community with 10 qualified carriers each carrier receives approximately 10 percent of the bypass mail on that route. Not all of those carriers also provide passenger or non-mail freight service. This act intends to change this situation by establishing rural mail pools on a route-by-route basis.

First, 70 percent of the mail will be tendered to those carriers which provided at least 20 percent of the passenger service on a given route. Twenty percent of the mail will go to non-mail freight carriers which provide at least 25 percent of the non-mail freight service on a given market. The remaining 10 percent of the bypass mail will go to the remaining carriers on the route. After 3 years this 10 percent mail pool will terminate and its mail will be divided among the remaining two pools. The amount of mail in the passenger pool should increase to 75 percent; the remaining 25 percent of bypass mail will go to non-mail freight carriers. The creation of these pool for passenger and non-mail freight carriers should ensure competition in each market without having the mail revenue split between an infinite number of carriers.

Based on advice from the department of Transportation, this act includes provisions to increase safety standards. It permits markets to convert from operations under part 135 of the Federal Aviation Rules to part 121 if a part 121 carrier becomes qualified to receive bypass mail in a given market. If this happens, all 135 carriers in the market have 5 years to convert to operations under part 121 in order to continue receiving bypass mail. The bill defines part 121 operations as aircraft carrying passengers and non-priority bush bypass mail on aircraft type certificated to carry at least 19 passengers, which according to the Department of Transportation, are the most efficient aircraft on an air-ton-mile basis that are still reasonably sized for use in rural Alaska. For the purposes of part 121 operators, the bill focuses on the aircraft which actually carry the mail.

All carriers in Alaska are put on notice of the requirements of conversion from part 135 to part 121. After a 6-year period if a 121 carrier becomes eligible for bypass mail on any route, 135 carriers on that route have one year to convert to part 121 to continue receiving mail.

Saving the Postal Service money by requiring the use of more efficient and larger aircraft, because of conversion to part 121 is an important goal of this bill. This also improves passenger service and safety. In a market which can physically support 121 operations, all passenger carriers in that market should be encouraged to provided increased safety and efficiency.

Some markets in Alaska may not receive 121 passenger service due to a lack of ground infrastructure or the population base to support 19-seat passenger aircraft. In these communities

smaller airplanes operated under part 135 are an integral part of the Alaska transportation system. Also, if a 121 carrier begins service in a market and withdraws, 135 carriers in that market need not convert 121 in order to carry bypass mail in the market.

The bill encourages passenger competition in bush markets. Where there is only one qualified passenger carrier under the bill, meaning it carries at least 80.01 percent of the passengers on a given route, then no other carrier could qualify as a passenger carrier in that market. As an incentive for other passenger carriers to enter the market to become the second largest carrier, thus increasing competition, the act requires the Postal Service to tender 20 percent of the 70 percent mail pool to the next largest passenger carrier during the first three years of the act, 14 percent of the overall bypass mail volume for the market. After the first 3 years the Postal Service may provide 20 percent of the 75 percent pool to the next largest passenger carrier, or 15 percent of the bypass mail for the market.

As previously stated, carriers operating under part 121 must use aircraft type-certificated to carry at least 19 passengers. Carriers operating under part 135 must use aircraft type-certificated to carry at least five passengers. Finally, recognizing the special needs of markets with water-only airports the bill requires water-landing aircraft to be type-certificated to carry at least three passengers. These requirements do not require these seats to be installed at all times. Rather, carriers must use minimum sized aircraft to increase efficiencies for the Postal Service and, passenger seats must be installed and insured when needed on such aircraft. A carrier may fly an extra section with only cargo or mail as long as the plane meets the minimum size requirements and the carrier otherwise qualifies to carry mail as a qualified passenger or non-mail freight carrier under the Act.

Under provisions in the bill, to avoid over-concentration in the markets, no carrier which qualifies both as a passenger carrier and a non-mail freight carrier may get mail under both the 70 percent—75 percent pool in 3 years—and the 20 percent pool—25 percent in 3 years—at the same time unless no other carrier qualifies in the market.

A substantial amount of the savings for the Postal Service comes from the creation of new bush rates for the carriage of mail. After collecting all of the carriers' cost data the Department of Transportation should first calculate the costs for all bush part 121 passenger carriers, then for 135 carriers, and finally for 135 carriers where only water landings are available to create a new rate for each class of carrier. In markets with qualified 121 carriers, all passenger carriers will be paid the 121 rate, including all 135 passenger carriers operating in those markets. For markets with only 135 carriers and water landing markets the new 135 rate will be applied evenly.

The act provides significant penalties for carriers which substantially misstate data just to qualify for bypass mail. However, it also gives DOT and the Postal Service the flexibility they need. Under this bill, both DOT and the Postal Service may grant waivers for otherwise unqualified passenger carriers if the carriers are operating in good faith, meaning they are making great efforts to provide passenger or non-mail freight service and are not using the bypass mail revenues as the primary means of their business. In addition, if the Postal Service or DOT determines a carrier meets all of the technical qualifications to operate in the system, but is not providing another substantial service, i.e. passenger or non-mail freight service, then it may be removed from the system. When making this determination DOT and the Postal Service should look at the quantity and quality of existing service in the community, including passenger carriage, and the proposed quality and quantity of service for the carrier seeking a waiver, to allow a 121 passenger carrier to become qualified if it reduces costs for the Postal Service and improves passenger service in a market, even if it has not provided a full 12 months of service in the market at the required levels under the Act.

To allow the Postal Service and DOT to collect 12 months of T–100 data from the carriers before establishing the new tender policy and setting new rates, most of the bush provisions will not take effect for 15 months from the date of enactment. Also, the bill requires the DOT to review the need for a bush rate case at least every 2 years. To maximize the savings for the Postal Service initial rate reviews by DOT should be performed expeditiously. All carriers in the State are allowed at least 1 year to begin providing additional services to the communities before reductions in mail tender go into effect.

Stating 6 months after the enactment date, the act permits the Postal Service and DOT to remove a carrier from the bypass mail program if the carrier was not attempting to qualify as a passenger or non-mail freight carrier.

The bill intends to promote safety by empowering the Secretary of Transportation to shut down any operation where substantial evidence exists that the carrier is flying in an unsafe manner to qualify for the tender of bypass mail. Such evidence includes flying in unsafe conditions or without proper training and equipment, especially with passengers on board.

The bill allows for the merger or acquisition of airlines. If two or more airlines merge, the two carriers' data for the previous period of time may be counted together for the purpose of qualifying for bypass mail. The merged carrier must show it is otherwise qualified to carry bypass mail under the provisions of the act. Also, where two or more air carrier certificates merge into one certificate, the carriers cannot later be split up and operated separately.

To allow the Postal Service to deliver the mail in the most efficient manner possible, under the provisions of this act, and under its internal statutory and regulatory provisions, the Postal Service may remove a carrier from the bypass mail system if it does not meet the requirements of this act. The act states previous carriage of bypass mail does not create a contract for guaranteeing future tender of bypass mail. Rather, the tender of bypass mail is only a contract for the carriage of each particularly batch of mail.

In summary, this bill intends to reduce the Postal Service's losses on the bypass mail program while improving safety and stabilizing passenger service. The full Senate Governmental Affairs Committee agreed, unanimously voting to pass the bill out of Committee on May 22, 2002. While some may argue this is re-regulation of the airline industry in Alaska, it is not. This bill requires carriers seeking eligibility to carry the bypass mail in Alaska to meet basic tests and minimum requirements. This is the time to correct the problems with the Alaska system before it collapses completely. To do otherwise would be to turn our backs on the rural communities of Alaska and the commitments the Federal Government has made to them as a result of broad Federal land ownership in Alaska.

Mr. CONRAD. Madam President, I rise to offer for the record the Budget Committee's official scoring of the conference report to H.R. 4775, the 2002 Supplemental Appropriations Act for Further Recovery and Response to Terrorist Attacks on the United States.

The conference report provides $29.356 billion in net, new discretionary budget authority, of which $14.492 billion if for defense activities and $14.864 billion is for nondefense activities. That additional budget authority will increase outlays by a total of $7.8 billion in 2002. Of the total spending authority provided, H.R. 4775 designates $29,886 billion as emergency spending, which will increase outlays by $7.783 billion in 2002. Per section 314 of the Congressional Budget Act, I have adjusted the Appropriations Committee's allocation for 2002 by the amount of that emergency funding. The conference report is within the committee's revised section 302(a) and 302(b) allocations for budget authority and outlays.

The conference report to H.R. 4775 is subject to several budget points of order. First, by including language increasing the 2003 cap on highway spending, the conference report violates section 306 of the Congressional Budget Act, which requires that such language be reported by the Budget Committee. Second, by amending the Caribbean Basin Economic Recovery

Act, H.R. 4775 decreases revenues by $60 million in 2003 and $785 million over the 2003–2012 period. Because the Congress has already breached the revenue aggregates under the 2002 budget resolution, the conference report violates section 311 of the Congressional Budget Act. Finally, H.R. 4775 violates section 205 of H. Con. Res. 290, the Concurrent Resolution on the Budge for Fiscal Year 2001, by including a number of emergency designations for spending on nondefense activities.

I ask for unanimous consent that two tables displaying the Budget Committee scoring of H.R. 4775 be inserted in the record at this point.

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

TABLE 1.—CONFERENCE REPORT TO H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES (Spending comparison—302(a) Allocations to Appropriations Committee)

[In millions of dollars]

	Current Level Plus Supplemental	Senate Allocations	Difference
General purpose:			
BA	733,597	734,126	−529
OT	694,579	700,500	−5,921
Highways:			
BA	0	0	0
OT	28,489	28,489	0
Mass Transit:			
BA	0	0	0
OT	5,275	5,275	0
Conservation:			
BA	1,758	1,760	−2
OT	1,392	1,473	−81
Mandatory:			
BA	358,567	358,567	0

TABLE 1.—CONFERENCE REPORT TO H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES (Spending comparison—302(a) Allocations to Appropriations Committee)—Continued

[In millions of dollars]

	Current Level Plus Supplemental	Senate Allocations	Difference
OT	350,837	350,837	0
Total			
BA	1,093,922	1,094,453	−531
OT	1,080,572	1,086,574	−6,002

Note: Details may not add to totals due to rounding. The conference report includes $29,886 million in emergency BA and $7,783 million in emergency outlays.

TABLE 2.—CONFERENCE REPORT TO H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES (Spending comparisons—Conference Report)

[In millions of dollars]

	Defense	Nondefense	Mandatory	Total
Conference Report: [1]				
Emergency:				
Budget Authority	15,008	14,878	0	29,886
Outlays	5,444	2,339	0	7,783
Nonemergency:				
Budget Authority	−516	−14	0	−530
Outlays	−100	117	0	17
Total:				
Budget Authority:	14,492	14,864	0	29,356
Outlays	5,344	2,456	0	7,800
Senate-passed bill:				
Emergency:				
Budget Authority	13,932	17,690	0	31,622
Outlays	5,286	3,161	0	8,447
Nonemergency:				
Budget Authority	0	−107	0	−107
Outlays	0	190	0	190
Budget Authority	13,932	17,583	0	31,515
Outlays	5,286	3,351	0	8,637
House-passed bill: [2]				
Emergency:				
Budget Authority	16,074	12,955	0	29,029
Outlays	5,632	2,441	0	8,073
Nonemergency:				
Budget Authority	−54	1,112	0	1,058
Outlays	−7	261	0	254
Total:				
Budget Authority	16,020	14,067	0	30,087
Outlays	5,625	2,702	0	8,327
President's request: [3]				
Emergency:				
Budget Authority	14,048	13,095	0	27,143
Outlays	5,310	2,491	0	7,801
Nonemergency:				
Budget Authority	0	1,262	0	1,262
Outlays	35	232	0	257
Total:				
Budget Authority	14,048	14,357	0	28,405
Outlays	5,345	2,723	0	8,068
Conference Report Compared To:				
Senate-passed bill:				
Emergency:				
Budget Authority	1,076	−2,812	0	−1,736
Outlays	158	−822	0	−664
Nonemergency:				
Budget Authority	−516	93	0	−423
Outlays	−100	−73	0	−173
Total:				
Budget Authority	560	−2,719	0	−2,159
Outlays	58	−895	0	−837
House-passed bill:				
Emergency:				
Budget Authority	−1,066	1,923	0	857
Outlays	−188	−102	0	−290
Nonemergency:				
Budget Authority	−462	−1,126	0	−1,588
Outlays	−93	−144	0	−237
Total:				
Budget Authority	−1,528	797	0	−731
Outlays	−281	−246	0	−527
President's request:				
Emergency:				
Budget Authority	960	1,783	0	2,743
Outlays	134	−152	0	−18
Nonemergency:				
Budget Authority	−516	−1,276	0	−1,792
Outlays	−135	−115	0	−250

TABLE 2.—CONFERENCE REPORT TO H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES (Spending comparisons—Conference Report)—Continued

[In millions of dollars]

	Defense	Nondefense	Mandatory	Total
Total:				
Budget Authority	444	507	0	951
Outlays	−1	−267	0	−268

[1] In addition to its increase in spending, the conference report retains the House-passed provision amending the Caribbean Basin Economic Recovery Act, which decreases revenues by $60 million in 2003 and $785 million over 10 years.
[2] The table removes directives of the House Budget Committee to the Congressional Budget Office on how to score certain provisions in the House-passed supplemental bill.
[3] Includes the President's request, transmitted with his 2003 budget, to provide supplemental funding in 2002 for Pell grants.

Notes: Details may not add to totals due to rounding. The conference report is within both the Committee's 302(a) and 302(b) allocations and the statutory caps on discretionary spending for 2002.

Mr. INHOFE. Madam President, I am pleased that the supplemental bill contains $75 million additional funding for the Federal Aviation Administration's operational account. It was facing some severe cutbacks in service without this funding.

In particular, the FAA had reduced funding for proficiency and developmental training of air traffic controllers. This funding was reduced by about $10 million without reprogramming approval from the Transportation Appropriations Subcommittee. It is my hope and desire that the FAA add back at least $2 Million to the Air Traffic Instructional Services program. This is a vital program that should never have been cut back. It provides ongoing in-service developmental training all across the country. It has proven to lower error rates by air traffic controllers, thus making the skies safer for the flying public. I believe they should restore the funding immediately.

Ms. CANTWELL. Madam President, I have come to the floor today to discuss an item that is not in the conference report that we will soon vote on, but is critical for our national defense, our future economic vitality, and the ability of our workers to turn this national disaster into new opportunities.

As my colleagues know, the Senate supplemental bill contained $400 million for job training and employment assistance for our Nation's workers.

These are funds that were requested by the administration and supported by a bipartisan group of Senators, and are critically needed throughout our Nation.

Unemployment nationwide has hovered around 6 percent throughout most of this year, and in my State, it is been considerably higher than the national average. With the loss of nearly 20,000 commercial aviation jobs in Washington State and severe slowdowns in other major industries, we are likely to suffer secondary layoffs that extend throughout the next 2 years.

But throughout the Nation, we are seeing more and more workers who are unable to find employment for extended periods of time.

A report released last week by the National Employment Law Project found that long-term employment is higher now than in any of the last four recessions.

The number of workers unemployed for more than 26 weeks has grown over 140 percent from March of 2001,

Former Treasury Secretary Robert Rubin wrote on Sunday in the Washington Post that, to get our economy on a sound footing and restore the prosperity of the '90s, we need to do three things: one, look seriously at our nation's long term fiscal position; two, expand trade by granting trade promotion authority; and three, invest in the training of our workers . . .

Mr. Rubin went on to say that ''Budgeting priorities should heavily emphasize preparing our future workforce to be competitively productive in the global economy.''

I have supported this bill and I still believe that we need to get these funds out there to replenish vital defense accounts and to implement immediate improvements in homeland security.

But in trimming the bill down to reach the level of spending the President feels necessary, I believe that this bill does a disservice to the workers in this nation trying to upgrade or learn new skills and identify new opportunities, and continues to short-change the systems that we have established to support those efforts.

While we are experiencing massive layoffs throughout the nation, businesses continue to find a serious skills shortage in our workforce, which slows our economic recovery.

Reducing WIA funding at this time by allowing last year's rescission to be enacted, will seriously impede our ability to get workers the training they need to secure high-paying jobs and strengthen U.S. competitiveness in the global economy. Such cuts would be short-sighted at a time when long-term unemployment is at a record high.

So I am disappointed that these funds have fallen through at the eleventh hour.

We are facing a tidal wave of demand for job training services. One-stop centers throughout this nation are experiencing record visits by displaced workers and those seeking to upgrade their skills.

In my State, the Renton ''Worksource Center'' is serving over 4,500 workers per month; and the Benton-Franklin County center recently served 991 job seekers in a single day last month;

And our one-stop systems are already producing results. In Washington, we have estimated that, for every dollar invested in programs for dislocated workers and youth training, we get $8 in participant earnings growth and taxes collected.

As these programs get further institutionalized, and as workers get to know the one-stop sites created throughout our States, we will see even greater usage by workers seeking to upgrade their skills or find a more ideal job.

But it won't happen if we don't commit to getting the system up and running. If we continue to short-change workforce development systems, the effects will be felt on our economy for years to come.

That is why I and over 50 of my colleagues joined together in requesting an increase in funding in the regular Labor-HHS appropriations bill currently under consideration by the committee. Despite my concerns about the immediate needs, I am pleased that the committee has decided to restore last year's rescission and provide increases in job these training accounts.

I urge my colleagues on the committee to work with us in ensuring that those funds are protected and maintained as we proceed to moving that bill through both Houses, and that we expeditiously reach consensus on that bill in the interest of our Nation's future.

I ask unanimous consent to print the Washington Post article by Robert Rubin in the RECORD.

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

[From the washingtonpost.com, July 21, 2002; Page B07]

TO REGAIN CONFIDENCE

(By Robert E. Rubin)

There has been much confusion and uncertainty among investors and in Washington about the economy and the stock market, and about what to do in response to a seemingly significant loss of confidence in our system. Much of the focus has been on accounting and corporate governance. These issues are important, but I think the restoration of confidence and the establishment of sound fundamentals going forward require a much broader focus.

To address accounting and corporate governance first: Clearly reforms are needed to deal with the systemic issues revealed by the recent spate of corporate problems, as are specific enforcement actions where appropriate. The accounting and corporate governance bill passed recently by the Senate seems to me on the whole sensible and responsive to these needs. Similarly, the New York Stock Exchange has issued thoughtful proposals on corporate governance. Expensing of stock options is, in my view, worth serious consideration, though practical problems such as valuation need to be resolved. And the conflicts between research and investment banking need a dispositive, industry-wide solution.

These accounting and corporate governance problems developed over time—as

seems to happen after extended good times—but only really came to the fore during the past year. From the time the magnitude of the problems became clear, the need was for a response that was energetic, effective and as rapid as possible. But that response—both in regulatory and legislative changes and in enforcement—should be balanced and appropriate. Our accounting and corporate governance systems have great strengths—in allowing for decisive management decisions, rapid change and agility, experimentation and risk taking—and those strengths should not be unwisely eroded.

Having said that, these accounting and corporate governance issues—though very important—are only part of a much broader question of how to best promote confidence and strong fundamentals, for the short and the long term.

That was exactly the question the new administration faced in the beginning of 1993, and the strategy then put in place contributed centrally to the remarkably strong economic conditions and sound economic fundamentals for the balance of the 1990s. Unemployment fell from over 7 percent to 4 percent and was under 5 percent for 40 consecutive months; private investment in productive equipment grew at double-digit rates for eight years; annual productivity growth more than doubled by the end of the period; inflation was low; GDP growth averaged roughly 4 percent per annum, and 20 million new private-sector jobs were created. Moreover, instead of the huge 10-year deficits projected by the Office of Management and Budget at the end of 1992, deficits were reduced and in time surpluses began.

Certain imbalances did develop—for example, the levels of consumer and corporate debt, the level of the stock market, and excess capacity—as they always do after extended good times, and an adjustment period was inevitable. How difficult that period was going to be would be affected by many factors, very much including the actions of government. Also, the legacy of the 1990s provided strong fundamentals to ameliorate this adjustment, e.g., a large fiscal surplus, strong productivity growth, low unemployment, more open markets around the world and a healthy banking system.

In my view, we need to restore the sound, broad-based strategy that was so central to the prosperity of the '90s. More specifically, I would focus especially on the following:

(1) Virtually the entire $5.6 trillion surplus projected by the nonpartisan Congressional Budget Office in January 2001, including $2.5 trillion of Social Security surplus, has now been dissipated. I wrote when last May's 10-year tax cuts were being debated that their direct cost—later estimated by the CBO as $1.7 trillion including debt service—and even more important, their indirect cost in undermining political cohesion around fiscal discipline, threatened the federal government's long-term fiscal position. And that is precisely what has happened.

Long-term fiscal discipline and a sound long-term fiscal position contribute substantially, over time but also in the short term, to lower interest rates, increased consumer and business confidence, and to attracting much-needed capital from abroad to our savings-deficient country. In addition, a sound long-term fiscal position would far better enable us to meet our long-term Social Security and Medicare commitments.

The portion of the 10-year tax cut that occurred in the short-term may well serve a useful expansionary purpose at a time of economic weakness. But the great preponderance of this tax cut occurs in outer years. Moreover, nobody is talking about a tax increase; the question is whether the cuts enacted for later years should be canceled. In my view, all matters pertaining to taxes and spending should be on the table, with a commitment to reestablishing a sound long-term fiscal position for the federal government.

(2) Trade liberalization and our own open markets contributed greatly to our economic well-being during the 1990s, and are critically important looking forward. The president should be given trade promotion authority, and the recently adopted steel tariffs and agricultural subsidies—which present such a threat to global trade liberalization and to business confidence in the outcome of the struggle over continued globalization—should be corrected. Also—a related matter—we should be prepared to engage in and lead en effective and sensible response to financial crisis abroad when our interests can be affected.

(3) Budgeting priorities should heavily emphasize preparing our future workforce to be competitively productive in the global economy, including improving our public school system and equipping the poor to join the economic mainstream.

Finally, we must deal effectively—building on the strong response to the terrible attack of Sept. 11—with the immensely complex challenges of terrorism and geopolitical instability that are of enormous importance to our economy as well as to our national security.

Much of this is difficult, substantively and politically, but the willingness to deal with exceedingly difficult public issues was central to our economic well-being in the '90s and is centrally important today and for the years and decades ahead.

The writer was head of the National Economic Council from 1993 to 1994 and secretary of the Treasury from 1995 to 1999. He is now director and chairman of the executive committee of Citigroup Inc.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Madam President, I yield any time on our side. The Senator from West Virginia authorizes me to yield back all time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES, I announce that the Senator from North Carolina (Mr. HELMS), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 7, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—92

Akaka	Bingaman	Byrd
Allard	Bond	Campbell
Allen	Boxer	Cantwell
Baucus	Breaux	Carnahan
Bayh	Brownback	Carper
Bennett	Bunning	Chafee
Biden	Burns	Cleland
Clinton	Harkin	Murray
Cochran	Hatch	Nelson (FL)
Collins	Hollings	Nelson (NE)
Conrad	Hutchinson	Nickles
Corzine	Hutchison	Reed
Craig	Inhofe	Reid
Crapo	Inouye	Roberts
Daschle	Jeffords	Rockefeller
Dayton	Johnson	Sarbanes
DeWine	Kennedy	Schumer
Dodd	Kerry	Sessions
Domenici	Kohl	Shelby
Dorgan	Kyl	Smith (NH)
Durbin	Landrieu	Smith (OR)
Edwards	Leahy	Snowe
Ensign	Levin	Stabenow
Enzi	Lieberman	Stevens
Feinstein	Lincoln	Thompson
Frist	Lott	Thurmond
Graham	Lugar	Torricelli
Gramm	McConnell	Warner
Grassley	Mikulski	Wellstone
Gregg	Miller	Wyden
Hagel	Murkowski	

NAYS—7

Feingold	Santorum	Voinovich
Fitzgerald	Specter	
McCain	Thomas	

NOT VOTING—1

Helms

The conference report was agreed to.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

AMENDMENT NO. 4315

The PRESIDING OFFICER. Under the previous order, there will now be 5 minutes of debate, equally divided, on the Hagel amendment No. 4315 prior to the vote on or in relation to the amendment.

Who yields time?

Mr. KENNEDY. Madam President, as I understand it, we are on the Hagel amendment and we have 5 minutes evenly divided. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I imagine the Senator from Nevada would want recognition to make a statement in favor of his amendment.

Madam President, I will yield myself 2½ minutes and ask to be notified of the last 15 seconds.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, yesterday we voted in the Senate on whether we were going to deal with a comprehensive prescription drug program for our senior citizens—the 13 million who have none, the 10 million who have employer-based systems and are losing it, and the 4 million who have HMO coverage but have caps of $500 and $750. We debated that.

I strongly supported the Graham-Miller proposal because it is built upon the Medicare model, a tried and tested program. It was comprehensive, affordable, and it would have met the needs of our senior citizens. I differed with our Republican friends on this particular proposal, but they believe they would achieve the same goal.

That isn't what the Hagel proposal is all about. It will only amount to 10 or 12 cents out of every health care dollar.

I think our seniors are entitled to better. They are the men and women who fought in the world wars, brought this country out of depression, and now are frail and elderly.

The question is, Are we prepared to do for them what we did for them in hospital care and physician services? They need the prescription drugs. I believe we can still find common ground. I would like to find common ground. It is the position of our Democratic leader to try to find common ground in terms of a comprehensive program.

This is a drop in the bucket. This is smaller than a fig leaf to cover the needs of our senior citizens. Let us in the Senate of the United States perform nobly and protect our senior citizens: let's pass a comprehensive program. The Hagel proposal does not do that. We need to do that or we fail our senior citizens.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Madam President, I yield to my distinguished colleague from Nevada 1½ minutes of our 2½ minutes.

Mr. ENSIGN. Madam President, our plan is affordable to seniors as well as to taxpayers in future generations. Our plan keeps senior citizens involved in the choices they are making because they will pay the first dollar out of pocket. They have the prescription drug discount card so they will save 25 to 40 percent on the drugs they purchase; but they will pay the first dollar out of pocket so it keeps them involved in the choices they are making and helps the market work and keeps downward pressure on prices.

It also works well with State plans. My State of Nevada used some of its tobacco money to cover senior citizens below $21,500 in income. Our plan fits in well with any of the State plans that have already been put into effect.

The other advantage that this plan has is that it goes into effect at least a year earlier than any of the other plans.

Lastly, our plan gives the help to those seniors who truly need it. Regarding the really sad stories we have heard on the floor of the Senate, this plan helps those seniors more than the Democrat plan, and it helps them even more than the tripartisan plan. If you are a moderate-income senior, with $17,000 of income or so and have $5,000 a year in drug costs, our plan helps those seniors more than any of the other two plans.

I urge the other Senators in this Chamber to support the Hagel-Ensign plan.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Madam President, my friend and distinguished colleague, the senior Senator from Massachusetts, talks about a common ground. This proposal is the common ground. As my colleague, Senator ENSIGN, has just stated, this addresses those who need the help the most. We do prioritize. We do focus on those seniors who need the help. Yet we do it in a responsible way. We stay within the $300 billion budget cap that this body voted on for a prescription drug plan over the next 10 years. It is immediate, it is permanent, and it uses the present market system.

We don't build a new government bureaucracy. It is not impersonal. It is direct. It caps the catastrophic dark cloud that hangs over all senior citizens. We are doing something for this generation of seniors as well as the next generation of seniors.

I hope our colleagues give this consideration and will vote for our amendment.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the AARP opposes this amendment. Every senior citizen group opposes this amendment for the reasons in this letter.

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

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

AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, DC, July 23, 2002.

DEAR SENATOR HAGEL: Enacting a comprehensive prescription drug benefit in Medicare this year remains the top priority for AARP. Our members are counting on the Senate to pass a meaningful drug benefit that is available and affordable to all beneficiaries. Our members were promised in the last election that a comprehensive drug benefit would be a priority, and we are counting on you to make good on that promise this year.

We appreciate the intent of your bill, S. 2736, the ''Medicare Rx Drug Discount and Security Act of 2002,'' to provide a prescription drug discount card and stop-loss protection to Medicare beneficiaries. However, in addition to our substantive objections, we are concerned that by offering this scaled-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful comprehensive approaches. We believe Congress should focus its efforts on enactment of a more comprehensive drug benefit this year.

In addition to the timing of your proposal, AARP has concerns about the approach taken in your bill, including:

Catastrophic coverage—While AARP has not opposed income-relating premiums, income-relating the Medicare benefit changes the nature of the program. This would set an extremely dangerous precedent in Medicare. Further, the stop-loss levels set in the bill do not provide enough protection for lower income beneficiaries. A low-income couple could spend 25 percent of their income just for drugs before this plan offered assistance. Thirdly, there are a number of issues involved in using tax returns to determine program eligibility levels, and we believe other options should be explored.

Discount card—While AARP supports the use of a discount card program as a building block for a Medicare prescription drug benefit, your proposal lacks the necessary specifications to guaranty the level of discount, what level of discount would be passed to beneficiaries, and the degree of consumer protections required of plans.

Given these concerns, AARP opposes your amendment. We remain fully committed to developing a comprehensive drug benefit for all Medicare beneficiaries and we look forward to working with you on legislation that our members can support.

Sincerely,

WILLIAM D. NOVELLI,
Executive Director and CEO.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time. I believe all time has been yielded back.

Mr. President, I make a point of order that the pending amendment violates section 302(f) of the Congressional Budget Act of 1974.

Mr. HAGEL. Mr. President, I move to waive the respective sections of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES, I announce that the Senator from North Carolina (Mr. HELMS), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 48, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—51

Allard	Domenici	Murkowski
Allen	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Breaux	Frist	Santorum
Brownback	Gramm	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith (NH)
Byrd	Hagel	Smith (OR)
Campbell	Hatch	Snowe
Carper	Hutchison	Specter
Chafee	Inhofe	Stevens
Cochran	Kyl	Thomas
Collins	Lott	Thompson
Craig	Lugar	Thurmond
Crapo	McCain	Voinovich
DeWine	McConnell	Warner

NAYS—48

Akaka	Durbin	Levin
Baucus	Edwards	Lieberman
Bayh	Feingold	Lincoln
Biden	Feinstein	Mikulski
Bingaman	Graham	Miller
Boxer	Harkin	Murray
Cantwell	Hollings	Nelson (FL)
Carnahan	Hutchinson	Reed
Cleland	Inouye	Reid
Clinton	Jeffords	Rockefeller
Conrad	Johnson	Sarbanes
Corzine	Kennedy	Schumer
Daschle	Kerry	Stabenow
Dayton	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Leahy	Wyden

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this question, the yeas are 51, the nays are 48. Three fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. GRAMM. I move to reconsider the vote.

Mr. HAGEL. 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 Senator from West Virginia, Mr. ROCKEFELLER, is recognized to offer a second-degree amendment.

Mr. REID. Mr. President, before the Senator from West Virginia begins, I have spoken to the Senator from New Hampshire, who is the manager of this bill. Following the debate on the Rockefeller second degree amendment, we will go to Senator GREGG or his designee on a second degree amendment, and then Senator REID of Nevada or his designee on the next second degree amendment. I ask unanimous consent that that be the order.

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

The Senator from West Virginia.

AMENDMENT NO. 4316 TO AMENDMENT NO. 4299

Mr. ROCKEFELLER. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for himself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH of Oregon, Mrs. LINCOLN, Mr. DURBIN, Mr. CORZINE, Mr. HARKIN, Mr. MURKOWSKI, Mr. HUTCHINSON, Mrs. CLINTON, Mr. TORRICELLI, Mr. WELLSTONE, Mr. SCHUMER, Ms. MIKULSKI, Mr. KERRY, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. SNOWE, Mr. ENZI, Mr. JOHNSON, Mr. SARBANES, Mr. DAYTON, Mr. LEAHY, Ms. CANTWELL, Mr. BAYH, Mr. KENNEDY, Mr. JEFFORDS, and Mr. CLELAND, proposes an amendment numbered 4316 to amendment No. 4299.

Mr. ROCKEFELLER. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide temporary State fiscal relief)

At the appropriate place, insert the following:

SEC. ____. TEMPORARY STATE FISCAL RELIEF.

(a) TEMPORARY INCREASE OF MEDICAID FMAP.—

(1) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2002, before the application of this subsection.

(2) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2003, before the application of this subsection.

(3) GENERAL 1.35 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002 AND FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraphs (5) and (6), for each State for the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, the FMAP (taking into account the application of paragraphs (1) and (2)) shall be increased by 1.35 percentage points.

(4) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to paragraph (6), with respect to the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 2.7 percent of such amounts.

(5) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this subsection shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(A) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(B) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(6) STATE ELIGIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a State is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after January 1, 2002, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(7) DEFINITIONS.—In this subsection:

(A) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(B) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(8) REPEAL.—Effective as of October 1, 2003, this subsection is repealed.

(b) ADDITIONAL TEMPORARY STATE FISCAL RELIEF.—

(1) IN GENERAL.—Title XX of the Social Security Act (42 U.S.C. 1397–1397f) is amended by adding at the end the following:

''SEC. 2008. ADDITIONAL TEMPORARY GRANTS FOR STATE FISCAL RELIEF.

''(a) IN GENERAL.—For the purpose of providing State fiscal relief allotments to States under this section, there are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, $3,000,000,000. Such funds shall be available for obligation by the State through June 30, 2004, and for expenditure by the State through September 30, 2004. This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under this section.

''(b) ALLOTMENT.—Funds appropriated under subsection (a) shall be allotted by the Secretary among the States in accordance with the following table:

''State	Allotment (in dollars)
Alabama	$33,918,100
Alaska	$8,488,200
Amer. Samoa	$88,600
Arizona	$47,601,600
Arkansas	$27,941,800
California	$314,653,900
Colorado	$27,906,200
Connecticut	$41,551,200
Delaware	$8,306,000
District of Columbia	$12,374,400
Florida	$128,271,100
Georgia	$69,106,600
Guam	$135,900
Hawaii	$9,914,700
Idaho	$10,293,600
Illinois	$102,577,900
Indiana	$50,659,800
Iowa	$27,799,700
Kansas	$21,414,300
Kentucky	$44,508,400
Louisiana	$50,974,000
Maine	$17,841,100
Maryland	$44,228,800
Massachusetts	$100,770,700
Michigan	$91,196,800
Minnesota	$57,515,400
Mississippi	$35,978,500
Missouri	$62,189,600
Montana	$8,242,000
Nebraska	$16,671,600
Nevada	$10,979,700
New Hampshire	$10,549,400
New Jersey	$87,577,300
New Mexico	$21,807,600
New York	$461,401,900
North Carolina	$79,538,300
North Dakota	$5,716,900
N. Mariana Islands	$50,000
Ohio	$116,367,800
Oklahoma	$30,941,800
Oregon	$34,327,200
Pennsylvania	$159,089,700
Puerto Rico	$3,991,900
Rhode Island	$16,594,100
South Carolina	$38,238,000
South Dakota	$6,293,700
Tennessee	$81,120,000
Texas	$159,779,800
Utah	$12,551,700
Vermont	$8,003,800
Virgin Islands	$128,800
Virginia	$44,288,300
Washington	$66,662,200
West Virginia	$19,884,400
Wisconsin	$47,218,900
Wyoming	$3,776,400
Total	**$3,000,000,000**

''(c) USE OF FUNDS.—Funds appropriated under this section may be used by a State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

''(d) PAYMENT TO STATES.—Not later than 30 days after amounts are appropriated under subsection (a), in addition to any payment made under section 2002 or 2007, the Secretary shall make a lump sum payment to a State of the total amount of the allotment for the State as specified in subsection (b).

''(e) DEFINITION.—For purposes of this section, the term 'State' means the 50 States, the District of Columbia, and the territories contained in the list under subsection (b).''.

(2) REPEAL.—Effective as of January 1, 2005, section 2008 of the Social Security Act, as added by paragraph (1), is repealed.

(c) EMERGENCY DESIGNATION.—The entire amount necessary to carry out this section is designated by Congress as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(e)).

Mr. ROCKEFELLER. Mr. President, I rise to offer this amendment on behalf of many Senators. It is a very long list.

Most of my colleagues know we should have included State fiscal relief and, in fact, did include it in our original stimulus package, which we debated both before Christmas and afterward but did nothing about. This is a stimulus package that we need now and need to complete because we have very dangerous cuts going on in Medicaid and in the health care programs in our States that affect our most vulnerable Americans.

The amendment which I and about 30 other Senators offer is to provide States with the assistance they need right now. State budgets, as the Presiding Officer is more than aware, having been a Governor himself, are in really bad shape financially, and 49 States, of course, cannot spend any deficit money at all. More than 40 States in this fiscal year faced a combined budget shortfall of between $40 and $50 billion, according to the National Governors Association and the National Association of State Budget Offices. It is a crisis. I hear from my Governor from West Virginia as often as the Presiding Officer from the State of Delaware hears from his Governor.

These deficits were caused by a combination of lower-than-expected revenues, higher-than-expected expenditures, including increased Medicaid costs, and Medicaid is our key, partly a result of the rise in unemployment. When that happens, what is a State going to do but to offer Medicaid?

There are some signs of an economic recovery at the national level. I say that without any particular reason to know that or even to be hopeful, but I will say that rather than just be pessimistic. However, it will certainly take 12 to 18 months, if I am right in my optimism, for the State to recover.

We offer this amendment to help address the States' fiscal crises. Yes, we are the Federal Government. Yes, they are States. However, they are deeply responsive to us and reactive to us with respect to Medicaid and virtually all of our health care programs.

This amendment will provide about $9 billion to States over the next year and a half by increasing the Federal Medicaid match, also by holding States harmless for reductions in their Medicaid match that would occur under current law and providing about $3 billion in new money that States can use for other social service needs such as child care.

I will explain that simply by saying when I conceived of this amendment originally, it was all about the Federal matching percentage. And then I got together with Senator COLLINS from Maine and Senator NELSON from Nebraska and we worked out a compromise, which I think is a far stronger amendment, which is to say that we want to do the Medicaid match problem but we also want to work on social services block grants.

There is a block grant component here of $3 billion, which means less for Medicaid but more for block grants, which means States can use it for child care, for education, for child abuse and negligence, and a variety of other services. It is a creative and good approach.

It is important that my colleagues support this amendment. I will say a word or two about some of its provisions.

Some Senators might say we should help the States. That is what we do. We often impose requirements and they get into trouble; we wander off, forgetting what we have done.

Some might say, look, they got themselves into this mess; why should we get them out of this mess? But the problem with that approach is, No. 1, they didn't get themselves into that mess. It was a result of what was going on nationally, economically, the way the whole formula is figured, and I can get into that if my colleagues want to talk about it.

Regardless of that, the problem is the people are affected, the people of our States are the ones affected. Governor Patton of Kentucky has noted:

> Without fiscal relief the cuts necessary to close the budget gaps will have profound effects on our Nation's children and the programs which serve our most needy populations.

Several States have already cut back coverage under their Medicaid programs. If States cut back on Medicaid benefits, their residents will be out in the cold. So we need to stop pointing fingers at the States and ensure that the safety net is strong for this Nation's people who are our most vulnerable citizens.

Despite the downturn in the economy that is affecting most areas of the country, the proportion of Medicaid costs that the Federal Government bears—in my State, it is 77, 78 percent, but the proportion that the Federal Government is now paying is declining in 29 States. It is declining in 29 States including the State of West Virginia.

So the States with reduced matched rates will lose well over half a billion dollars. This is as a consequence of what is now going on under current law. Our amendment would hold States harmless for these decreases.

Our amendment will also provide a temporary increase in the Federal Medicaid matching rates. I say temporary; it is not permanent. There will be people here who will try to argue we are creating an entitlement. It is a temporary program which we write into law.

I would say to the Presiding Officer, when we did the tax decreases, we wrote that into law. We could write this into law. It will last a certain period of time, the Medicaid match will be up until a certain year, the social services block grant up until a certain year. We write it into law. That is what we did with tax cuts. That is what we could do in this amendment.

The pressure on States to cut back health insurance for low-income families and individuals is enormous. The Governor of my State, this Senator's State, Gov. Bob Wise, calls me constantly about this. The State is in deficit for many reasons. It is not a wealthy State—it is a wonderful State, but it is not a wealthy State—and he agonizes over this because he knows at the end of the day he will have to make cuts in Medicaid. He already has had to. He doesn't want to do that because it affects so many of the people I represent—that we all represent.

Finally, I say to the Presiding Officer, the amendment will provide States with money they can use for other social services. It is very creative. It can be education. It can't be health care, but it can be education; it can be child care, which plays very strongly into the whole welfare reform debate issue. It can be for child abuse and neglect.

All of us will offer meaningful assistance to States with ailing budgets, lessening the need for States to cut programs or raise taxes in the middle of something called a very bad recession. I cannot think of a more important time to pass this than now.

My State will receive about $58.5 million under this amendment, which it desperately needs in order to ensure coverage for our people.

I want to stress that this proposal is temporary. It will be effective for 18 months from April 2002. Our amendment includes an emergency designation. Why do we do that? Because that is the way it originally was. That is the way it always was. It was part of the stimulus package. It was part of getting America going again. Now more than ever we need to get America moving again economically.

The total estimated cost of the proposal, for both the block grant part and the FMAP part, the Medicaid match part, is $9 billion over 10 years. I believe it is appropriate that we provide the States with this relief under the traditional emergency designation.

I will be glad to speak further, but I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I rise today with my colleagues, Senator ROCKEFELLER, Senator BEN NELSON, and Senator GORDON SMITH, as well as with several other of our colleagues, to offer an amendment that begins to address the fiscal plight of our States. I congratulate Senator ROCKEFELLER and Senator NELSON for their hard work on this issue.

Originally, we had slightly different approaches but, in an attempt to get something done that will help our States that are struggling with fiscal

crises, and more important, the low-income families who are dependent on Medicaid for their health care needs, we joined together and came up with a compromise that I hope will win widespread bipartisan support.

Here in Washington, consumed with our own budget issues, we too often forget that we have 50 partners in our efforts to provide needed health care, education, and other essential services to our citizens. Our partners are our States, and they need our help and they need it now.

The recession may officially have come to an end, but its effects still linger and they are being felt acutely by States from Maine to Nebraska, from West Virginia to Oregon. The resulting rise in unemployment, as well as the decline in tax revenues, coupled with the aftermath of September 11, have placed enormous and unanticipated strains on our State governments' budgets. States are facing a dramatic and unexpected decrease in government revenues at precisely the time when more revenues are needed to respond to the needs of more and more Americans who are having difficulties making ends meet.

The combination of increasing demand for services and resources that have declined is causing a fiscal crisis for States across the Nation. According to the National Governors Association and the National Association of State Budget Officers, more than 40 States are facing an aggregate budget shortfall of between $40 billion and $50 billion. Most States have seen their estimates of tax collections decrease, often precipitously and unexpectedly. State governments are scrambling to respond.

Forty-nine States are required by law or their constitution to balance their budgets, so running a temporary deficit for these States is not a possibility.

Moreover, the problem is getting worse. It is not likely to improve anytime soon. A survey by the National Governors Association shows that individual tax revenues for the first 4 months of this year are running nearly 15 percent behind last year's level.

The problem also is not an isolated one. It is not limited to just one area of the country. Mr. President, 39 States have been forced to reduce their already-enacted budgets for fiscal 2002 by cutting programs, tapping rainy day funds, laying off employees, and reducing important services.

According to the Conference of State Legislators, States have been forced to cut a number of critical programs. Twenty-nine States have attempted to balance their budgets by cutting spending on higher education—something no one likes to see; 25 States have cut corrections programs. Others have cut K–12 education and the Medicaid Program; 10 States have reduced aid to local governments. In addition, a number of States have resorted to increasing taxes and fees by a total of $2.4 billion.

The situation in my home State of Maine is typical of the problems faced by many States. Our fiscal year just ended on June 30. Just this past March, State revenues appeared to be on target at approximately $2.4 billion. In April, after the State legislature had adjourned for the year, State forecasters projected a shortfall of $90 million, largely due to sluggish capital gain receipts.

By mid-June, the expected shortfall had risen by another $20 million, due to lower than expected sales taxes, income taxes, and corporate income tax receipts. All were off projections.

So you can see how quickly the financial system turned from relatively positive to negative in my State and many others.

The shortfall in the fiscal year that just began in May looks even worse. We may experience a shortfall of $180 million. That is enormously difficult for a State such as Maine to deal with in a way that does not hurt the people we serve.

To close the books on last year, the Governor of Maine had nearly emptied our State's rainy day fund. This year, the choices are going to be far tougher. Already, cuts in education funding, furloughs for government workers, and cuts in the Medicaid Program are on the horizon.

I believe States need to tighten their belts in times of fiscal difficulty just as the Federal Government should do in austere fiscal times.

We are not talking about taking the States off the hook. They are still going to have to make a number of very difficult choices in order to balance their budgets. But the unexpected nature and the severity of the crisis that States now face has convinced me we need to give them some temporary help. We should do so by targeting resources where they are most needed for health care and social services programs.

Our amendment would provide a temporary increase in the Federal Medicaid matching rate. It would also provide block grant funds to every State. Specifically, it would provide $6 billion to States by holding each State's Medicaid matching rate harmless for the next 18 months. It would also provide a temporary increase in the Medicaid matching rate.

I note that over 30 States are scheduled to see a decrease in their Federal matching under the Medicaid Program.

So we would hold these States harmless. They would no longer see their Medicaid rate drop at the worst possible time for them from a fiscal standpoint.

The legislation would also provide $3 billion through a temporary block grant to help States pay for the rising demand in social services resulting from the economic downturn. As Senator ROCKEFELLER indicated, that could be used, for example, for child care programs that are so important to our States.

In order to be eligible for the increased Medicaid funds, States are asked to maintain their Medicaid Programs. There are some States that have acted to contract their Medicaid Programs in order to cut their costs. But these States could reverse those actions and, thus, become eligible for the increased Medicaid match that is provided by this bill.

Regardless, every State is going to benefit from the package we put together. Every State will receive a share of the block grant funding and will be protected by the provisions that maintain the Medicaid matching rates at no less than the current level. Those are the so-called hold harmless provisions.

Our amendment is strongly supported by the National Governors Association, as you might well expect. They need our help. But it is also strongly endorsed by a number of health care providers that are very concerned about their ability to continue to provide much-needed quality health care to citizens who rely on the Medicaid Program. It has been endorsed by the American Hospital Association, the American Health Care Association, which represents our nursing homes, the Visiting Nurse Associations of America, and a host of other health care provider groups.

The support that our legislation has received underscores the importance of providing assistance to States at a time when many are being forced to look toward cuts in vital health care programs in order to balance their budgets.

Our amendment targets most of our assistance on Medicaid. The reason is that the Medicaid Program is the fastest growing component of State budgets. While State revenues were stagnant or declined in many States last year, Medicaid costs increased by 11 percent. This year, Medicaid costs are increasing at an even greater rate—13.4 percent. My home State of Maine is one of only a number of States that have been forced to consider resorting to cuts in Medicaid in order to make up for their budget shortfall.

The amendment we are offering today—I want to stress this point—would not free States from the burden of making painful, difficult choices in crafting their budgets for the current year. But it would help to lessen the impact of the cuts. It would help to soften the blow from a situation in which the States are really not to blame. It is a combination of events—of declining tax revenues, lingering impact of a recession, and the events of September 11—that has created the fiscal crisis for our States.

Our legislation would help protect vital programs for those who can least bear the cuts in services. To the State of Maine, our amendment would mean $54 million for health care and social services that would help our most needy citizens and assist our Governor

and the legislature in producing a balanced budget without resorting to draconian cuts that would have a terrible impact on our State citizens.

Congress is most effective when it stands arm in arm—not toe to toe—with our partners, the States. Our States face a crisis of vast and still expanding dimensions. I think we need to help, and we need to help now. The longer we wait, the more difficult it is going to be for our partners, the States.

This amendment is a modest amendment. Other versions of this amendment were far more expensive. But in recognition of the fiscal realities we face, we have limited its scope. But it is an amendment that would make a difference to the States and to needy citizens across our Nation. I urge my colleagues to join me in providing much needed but temporary fiscal relief to the States.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I rise today to join my colleagues and good friends, Senator COLLINS and Senator ROCKEFELLER, in discussing this issue, and to urge the support of our colleagues as we strengthen the partnership that exists between the States and the Federal Government as it relates to the Medicaid Program and social services.

With the Presiding Officer having led the National Governors Association, and having served as a Governor with the Presiding Officer in the National Governors Association, I feel perhaps a little bit like I am preaching to the choir. On the other hand, I think it is important that we continue to point out the challenges facing the States today which will put in doubt the continuing relationship of providing the kinds of benefits necessary for Medicaid and for social services.

There is, in fact, a partnership. It has been a partnership—a partnership where all the parties have responsibility and all the parties have an opportunity to help the most vulnerable among our society and our population. But as my colleagues have pointed out, States today are experiencing the necessity of making cuts in spending for important social services as well as for education and for a number of other programs.

The current economic indicators suggest it could be years before revenue levels return to what they were in the late 1990s. It will continue, therefore, to be a herculean challenge for the States to maintain a semblance of the services they were able to provide only a few years ago. As is the case in any economic downturn, now is the time when people need the services most.

Senator COLLINS and Senator ROCKEFELLER have indicated the importance of this particular legislation to their home States. I ask for the opportunity and the courtesy to be able to do the same.

In my home State of Nebraska, unemployment levels are at their highest mark in 15 years. For only the second time in history, Nebraska will collect less revenue this year than it did last year. When those two figures are put together, it should be abundantly clear that the budget is being pressed on both sides, and eventually something will break.

In Nebraska, cuts have already been made to child care programs, rural development, and other essential services. A tax increase has been passed by the legislature. These measures might relieve the strain for today and tomorrow. But next year there will be more tough choices and even fewer options.

Many of those options will likely involve cuts to Medicaid unless we act to provide fiscal relief. According to the National Governors Association, Medicaid spending has been a particular struggle for States since expenditures have risen an average of 12 percent over the past 2 years while State revenues rose to a total of 5 percent—where they even increased, let alone where they decreased.

Medicaid spending has been driven by increases in health care costs generally. For example, Medicaid costs for prescription drugs have increased by 18 percent annually over the past 3 years. It has also been increased by the recession-related increases in the number of people who have become eligible for Medicaid due to the downturn in the economy. This continues to grow worse.

As we look for a solution for Medicare and the prescription drug benefit that we want to see provided to our seniors and to those who have the need as part of the Medicare Program, we know what the increase in cost has done to the average citizen. This program has felt the same impact.

To date, most States have been able to reduce Medicaid spending without cutting back eligibility significantly. Mr. President, 28 States have failed to budget enough funds for Medicaid this year, and nearly all States have implemented Medicaid cost-containment measures, such as reducing some benefits, increasing beneficiary cost-sharing, or cutting or delaying payment to providers.

But as fiscal pressures continue to mount, many States are likely to consider substantial reductions in Medicaid eligibility that would leave hundreds of thousands more children, families, and seniors uninsured. Medicaid, as you know, is often the second largest share of State budgets after education, and States have already exhausted the traditional budget balancing tools, such as tapping reserve funds and using one-time measures, such as using tobacco settlement funds or forward-funding spending programs, as well as Medicaid spending cuts unrelated to eligibility. But the States need help.

It is important that we help the States today because part of the partnership we have established with the States is welfare reform. To the extent they are now faced with making cuts that will reverse the success we have had in welfare reform, it would be a tremendous shame to sit by and not do what we can to help avoid that sort of result.

As you know, Medicaid, as well as the eligibility requirements and transitional benefits in social services, have helped transition people from welfare to work. I think it would be a tremendous disservice if we saw the absence and the withdrawal of those programs reverse the trend, where people go from work back to welfare because they lose their child support care and other valuable programs that have helped in the transition.

For the past several months, we have been working together, Senator COLLINS and I—and we have been so pleased to have been joined by Senator ROCKEFELLER in bringing about this coalition—to craft a measure to help States through this period of fiscal crisis.

During the journey to bring our measure to the floor, it has gone through some changes, but, more importantly, it has become even more of a consensus measure along the way. As Senator COLLINS indicated, it has the support of the National Governors Association, with the letter today supporting it. And these are members of all political parties, a tripartite group, where they are now supporting it and truly recognize how important it is we work as quickly as we can to provide this support to the States.

The Rockefeller-Collins-Nelson amendment will provide $9 billion, as has been mentioned. It is a temporary measure that will provide enough help, over the next 18 months, to ensure that low-income families, children, seniors, and persons with disabilities most affected by the economic downturn will get the health care as well as the other services they need. It will also help to provide financial resources for various hospitals, clinics, nursing homes, doctors, and other providers that offer such services.

It is clear this amendment is, by no means, perfect. But it is a consensus amendment, and it is a step in the right direction, on a temporary basis, to help the States through these difficult times and, moreover, to help the residents and the citizens of the States get through this.

So I urge my colleagues to adopt this amendment and take this step to avert, at least in part, potentially damaging cuts to Medicaid, as well as to other social service programs.

I hope, as the list of supporters is included in the RECORD, numerous senior groups and other groups interested in the outcome of the Medicaid Program and social services—that that list will show there is strong support, not only among the States but by those who are equally interested in the outcome for seniors and for others, and that that support will encourage and bring about the support of others of our colleagues, so this amendment can be adopted.

It appears we are going to need the requisite 60 votes for this to be adopted. We hope people will support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Idaho.

Mr. CRAPO. Mr. President, I ask unanimous consent to speak for up to 5 minutes as in morning business.

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

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

Mr. KYL. Mr. President, I rise to express my concerns with Senator ROCKEFELLER's amendment. As you know, it would provide every state with a 1.35 percent point increase in their Federal Medical Assistance Percentage, FMAP,—the amount that the Federal Government supplements States for their Medicaid costs.

Under FMAP, Medicaid funds are distributed to States based upon a formula designed to provide a higher Federal matching percentage to those States with lower relative per capita income, and a lower Federal matching percentage to those States with higher per capita income. This formula, although not perfect, is justified because States cannot manipulate it for their own gain; the data is periodically published and can be estimated with reasonable accuracy. Additionally, the use of per capita income is a proxy for State tax capacity which, in turn, relates to a State's ability to pay for medical services for needy people. To put it simply: poorer states get more help than wealthier States.

The Rockefeller amendment ignores the Medicaid formula and gives each State a 1.35 percent point increase. Under the amendment, states that have been determined by the Medicaid formula to receive the lowest FMAP of 50 percent receive the greatest percentage increase in FMAP. States with the highest FMAP receive the lowest percentage increase. This is the exact opposite of how the funds should be allocated. The Medicaid formula, whatever its faults, does indicate a relative sense of need. It would be wrong to the give the least needy States the largest percentage increase.

For example, Illinois' FMAP for fiscal year 2003 is 50 percent. Increasing this to 51.35 percent, as the chairman's mark does, increases Illinois' FMAP by 2.7 percent. Arizona's FMAP for fiscal year 2003 is 67.25 percent. Increasing this to 68.60 percent, as the amendment does, increases Arizona's FMAP by only 2 percent and, obviously, a much lower dollar figure. Illinois is receiving a 35 percent greater increase in its FMAP than Arizona, yet by the formula's standards, Arizona has shown that it needs a far greater FMAP than Illinois.

While the amendment is supposed to be a temporary increase in the FMAP for just 18 months—I also worry that this temporarily increase would become permanent, in which case it could cost upwards of $30 billion over 10 years.

Additionally, the Chairman of the Finance Committee had scheduled a mark up on a proposal similar to this amendment. Unfortunately, the mark up was canceled. I do not think that having an amendment on the Senate floor without the legislation going through the committee process is the best way to make changes in the Medicaid formula that could become permanent.

Given these facts, I will not be able to support the Rockefeller amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, there are a variety of things that have been said about this amendment, and there are a few more things that could be said, but, basically, the nature of the amendment has been laid out.

We are talking about an emergency designation. We did that in the pre-last Christmas stimulus conference, of which I was a member, but it did not get anywhere. We have talked about maintenance of effort. We talked about the fact that this started out as just for Medicaid, and now it is bifurcated in two parts, both of which are good. And it is a stronger amendment.

I notice the presence of my distinguished colleague, Senator SMITH, on the floor, and hope that he will have some comments he will want to make.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, first, I thank the Senator from West Virginia for his leadership in bringing together this coalition.

The amendment, that I hope we soon adopt by an over 60-vote margin, is, in part, like what we adopted last December when, as part of the supplemental bill or the stimulus package, Senator BAUCUS and I authored an amendment that would have helped a great deal with respect to Medicaid in the States' use of these funds. This bill is broader. It allows States more discretion.

Senator BEN NELSON, Senator COLLINS, Senator TIM HUTCHINSON, I, and others have come together to provide an amendment that our States desperately need us to adopt.

Medicaid is an essential part of our health care safety net. Last year, the Medicaid Program provided health coverage for 44 million of the most vulnerable Americans 22.6 million children, 9.2 million adults in low-income families, and 12 million elderly and disabled.

One in four American children are covered by this important program. Yet, despite the program's importance, states around the country are struggling to fund their share of their Medicaid programs.

The National Governors' Association reported several weeks ago that States are in the worst financial situation in 20 years, and that they expect next year's situation to be even worse.

During this current fiscal year, more than 40 States are experiencing budget shortfalls totaling $45 billion. To close the gaps in funding, many States are cutting public education, services to the elderly, and health care to the poor—Medicaid—even as families are struggling to get by in the weakened economy.

Twenty-two States have already acted to cut costs by eliminating planned expansions of Medicaid or slashing current Medicaid eligibility.

To keep State budgets in balance this year, Governors have cut spending in many departments, tapped ''rainy day'' funds, and depleted tobacco settlement funds. What this means is that, as we enter 2003, the one-time fixes have been used up. In the words of Idaho's Governor Kempthorne, ''The cupboard is bare.''

Going into legislative session this year, my home State of Oregon faced a budget shortfall of more than $800 million, and the majority of States are facing similar conditions.

The cruel irony of this situation is that just as State revenues have dropped due to poor economic conditions, many more families are turning to Medicaid as their only source of health care.

I know that in Oregon, the number of people on Medicaid has risen by more than 10 percent since June of last year, and I suspect that many of your States have experienced similar increases in demand.

Last year, more than 40 million Americans lived and worked without health insurance, and it is estimated that the economic downturn will add another 4 million to the ranks of the uninsured.

The amendment before the Senate today addresses a very real emergency. It will allow States to continue providing health care to our society's most vulnerable members in this economic downturn by providing a temporary increase in the federal medical assistance program, FMAP, funds States receive to pay their portion of the Medicaid bill.

It will prevent the erosion of health insurance coverage and help maintain a strong health care safety net for vulnerable Americans during the economic downturn.

By temporarily increasing the Federal portion of the Medicaid bill, the scope and depth of possible State budget cuts or tax increases will be lessened, minimizing the potential negative impact on the economy and our most vulnerable citizens across the country.

Including funds for States to use for a variety of social services will also help provide services to the needy at a time when demand for such services is demonstrably on the rise.

It is the right thing to do, and the right time to do it.

I urge my colleagues to support our amendment so we can clear the 60-vote threshold.

Again, I thank our colleague from West Virginia, Senator ROCKEFELLER,

for his leadership and look forward to joining him in support of this critical and timely amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank Senator ROCKEFELLER for his leadership on this amendment and on health care policy. I have said to the Senator from West Virginia, it is a little bit like the E.F. Hutton ad: When E.F. Hutton speaks, people listen. Senator ROCKEFELLER has that credibility.

This is critically important. I know in Minnesota it is about $123 million in additional Medicaid funding. There is also the additional social services block grant money that would also come to Minnesota. Our State, just like many States in the country, is under siege financially.

The other important feature is that one of the conditions upon receiving this is to not cut back on Medicaid or medical assistance eligibility which is extremely important. People need to be able to keep their health insurance.

I ask unanimous consent to be an original cosponsor.

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

Mr. WELLSTONE. I thank Senator ROCKEFELLER for stepping forward and taking the lead. I indicate to my colleagues my very strong support as a Senator from Minnesota for this amendment.

I yield the floor.

Mr. REID. Mr. President, I say to my friend from West Virginia, the sponsor of this amendment, the Senator from West Virginia would agree to a reasonable time on this amendment; would he not?

Mr. ROCKEFELLER. The Senator is correct.

Mr. REID. There is not a manager on the floor, and there are other things going on, such as the memorial service for the fallen police officers in a few minutes. I would hope that we would be in a position in the near future to arrive at some reasonable time to vote on this amendment. It appears to have wide support. I would hope on this amendment the majority leader would not have to file a cloture motion. It is my understanding that the last time there were at least eight or nine Republican cosponsors of this legislation; is that not true?

Mr. ROCKEFELLER. The Senator is correct. If the Senator will yield for an additional comment.

Mr. REID. Yes.

Mr. ROCKEFELLER. It is a very interesting situation because we have a compromise. It has very broad support. Nobody has come to speak against it. There is a temptation to call for the yeas and nays; we are ready to vote. We could have voted on this already. We voted in the Finance Committee. If we voted on the floor, this is something I think would pass well and easily. It is incredibly important to the States. I will say something about that after I yield back to the Senator from Nevada.

Mr. REID. I appreciate the work that has been done by the Senator. I hope this isn't happening. This is very typical, when someone knows there is a good piece of legislation on the floor, to just ignore it and go away. People don't want to speak against this because States are helped as a result of the amendment of the Senator from West Virginia. It is shaping up that maybe this will be our Friday vote. The leader has indicated he will not go off this legislation at the drop of a hat. He is working very hard to get a bipartisan prescription drug amendment added to this underlying legislation.

We should move on this legislation the Senator has offered and not waste time. The Senator from West Virginia or the Senator from Nevada can't make that decision.

But we can suggest to the majority leader that it appears a big stall went on here and maybe there should be a cloture motion filed on the amendment of the Senator from West Virginia. Nothing is happening here and this amendment has been on the floor. I have been watching all the floor proceedings. Has anybody spoken against this amendment?

Mr. ROCKEFELLER. I say to the Senator, not a single voice has been raised against it.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Mr. President, I say to the majority whip that there is one individual—Senator GRAMM of Texas—who came by as I was about to speak and asked to speak before there is a vote or any final agreement. He intends to speak in opposition to my position. He made that clear. I will not speak for him, but as a courtesy to him I note his interest in making a statement in opposition.

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

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, it is very perplexing, really, because I was noting when the Senator from Nebraska was here, the floor was crowded with Senators on our last votes. Obviously, all of a sudden, the Senate floor was empty when we came to what is the single most important part of the relationship with the Federal Government that States are worried about and that is their Medicaid match.

This Senator was a Governor for 8 years. I remember what happened in the early 1980s when we had the recession. I remember what happened in Medicaid and I remember what happened in the public employees insurance. Everything sort of collapsed. And then there is this body up there in Washington that thinks it is so high and mighty that it doesn't need to pay attention to the problems of States. We only pay attention to the problems of the world and the country. This is an example where this was part of the stimulus package and we were dealing with the absolutely most critically important part of whether a child eats, whether a child has medical services, whether a family has medical services, and everybody is silent.

I have a very strong feeling that if this were taken to a vote, it would get well over 60 votes. I know the Senator from Illinois is here and so is the Senator from Minnesota. But there is this strange silence, which sounds like a rolling filibuster without voice. I think it is wrong. We are ready to go to a vote. I am going to keep saying that because it is important.

Mr. WELLSTONE. Will the Senator yield for a question and comment?

Mr. ROCKEFELLER. Yes.

Mr. WELLSTONE. I urge the Senator—and I know he will do so—it is hard to figure out the opposition, but I hope all of us think about our States. This is an enormous contribution the Senator is making.

I ask the Senator from West Virginia whether he intends to persevere and to keep it on the floor and do whatever he needs to do to bring it to a vote.

Mr. ROCKEFELLER. This amendment is going to be voted on.

I notice the presence of the distinguished Senator from Illinois.

Mr. DURBIN. I would like to speak on behalf of the Senator's amendment. I will seek recognition on my own time if that would be appropriate.

Mr. ROCKEFELLER. I was trying to be courteous and friendly and encourage the Senator to speak, and he will proceed as he does so well.

Mr. DURBIN. The Senator from West Virginia is always courteous.

Mr. President, the amendment before us, offered by the Senator from West Virginia, is one of critical importance across the Nation. In Illinois, we have cities large and small, hospitals large and small; but we have health care needs that are universal. Whether you live in small town America or in the middle of Chicago, there is genuine concern about health care and its cost.

Now, one of the groups of Americans that we have made a special effort to try to help are those who are in low-income situations. The Medicaid Program is an effort by our country to say that no matter how poor you might be, whatever your economic circumstances, we will not let you go without basic medical care. That has been a commitment in place for almost 50 years, and it is one that I think we honor as Members of the Senate, both Democrats and Republicans.

What the Senator from West Virginia challenges us to face is the fact that the amount of money we are sending to the States to meet that obligation is not enough. It is not enough for several reasons. The state of the economy is so poor, with unemployment, with businesses in trouble, with people not receiving health insurance at their place of employment. They turn in desperation to this Medicaid Program. I think you will find that a substantial portion of those who turn to it are children—the children of a working mother, the

children who otherwise might not receive the most basic medical care. So the demand for services is increasing because of the sad state of our economy.

The Senator from West Virginia knows that. He comes before the Senate and says: If you are going to talk about health care in America, for goodness' sake, be sensitive to the fact that there are more and more people in desperate need. If the commitment of our Federal Government to Medicaid is to be honored, certainly we must pay close attention to the amendment.

Second, he raises a serious element, which is the fact that the cost of this medical care is increasing. Ironically, one of the elements that drives up cost is the cost of prescription drugs under the Medicaid Program—under virtually every health care program. So in the State of Illinois, in West Virginia, in North Carolina, and in California, when you try to keep some young person, for example, healthy so they don't have to be hospitalized, under Medicaid the cost of prescription drugs to do it keeps increasing.

On a national average, the cost of prescription drugs went up 17 to 18 percent last year. So is it little wonder that, as we look at this program, it is suffering because not only are there more demands but the costs have gone up? Senator ROCKEFELLER appropriately says to us, for goodness' sake, you cannot ignore these realities. If you don't provide additional resources for Medicaid, fewer people will be served and we will literally threaten the quality of health care to millions of Americans.

This bill sounds so simple—and it is—because it asks the Senate to keep its word. If you are committed to the families of America, rich and poor, that they will not be left without quality health care, are you willing to vote for it?

It amazes me. As the Senator comes to the floor, you would expect opponents of this legislation to be gathered and make the arguments they are going to make. Yet you could shoot a cannon across this floor and not hit an opponent. No one is here. I don't know if this is an effort or a conspiracy of silence to not come and say anything and then pray that the amendment doesn't come to a vote. Some colleagues live and dread that they may have to vote for this one way or the other.

I am reminded of one of my favorite colleagues from the House of Representatives, the late Mike Synar of Oklahoma, who used to say to me, when a tough vote would come up on the House floor: I know you don't want to cast that tough vote, but if you don't want to fight fires, don't be a firefighter. If you don't want to vote on tough issues, don't run for Congress.

Well, this is a tough call. We are saying to Democrats and Republicans alike: Come to the floor and vote on whether we are going to adequately fund Medicaid and reimburse the States that are struggling with this economy. If you don't believe we should, then vote no. But if you believe we should, as I do, join Senator ROCKEFELLER in this effort.

We all know what the States are going through. There is not a State in the Nation that hasn't faced serious shortfalls in terms of State revenue. My State of Illinois, and virtually every other State, has had to make cuts and changes when, in fact, each and every one of them is paying for them. At the same time, since September 11, all of the States and localities are putting more money into security as we expect them to do. They are providing law enforcement so we have a safe and secure Nation. They are trying to maintain and protect our basic infrastructure of America.

So as the economy is weakening, the demands on State revenue increase and the costs of the Medicaid Program go up, and Senator ROCKEFELLER says it is time for the Federal Government to meet its obligation. What he has proposed that we do is to increase the Medicaid reimbursement in all States by 1.35 percent.

As I stand here and say that, many people listening to this debate will say: How big a difference could that make? The fact is it could make a substantial difference. It could provide our States up to $6 billion over the next 18 months; $6 billion right into the Medicaid system, making certain that people receive basic health care.

It also says States with a lower FMAP this year than last year will be held harmless. States do not lose money under this proposal. It says States will also receive, if I understand correctly, $3 billion in fiscal relief grants for a variety of social service programs which are now suffering.

The Urban Institute estimates that Medicaid enrollment can be expected to increase because of our weak economy by approximately 800,000 adults, 2 million children, and 260,000 people with disabilities, if the unemployment rate rises from 4.5 percent to 6.5 percent. With that, of course, are the demands for more Federal money and more State money.

I applaud my colleague from West Virginia. We have worked on this before. We tried to bring this to the floor several different times. This is the moment. If we are talking about health care costs, whether it is the cost of prescription drugs, the availability of generic drugs, as we address each of these issues, let's not overlook the basics.

There are many people in this country struggling to get by today, working part-time, unemployed, trying to keep their children healthy. States are struggling to provide the services these folks need. In my State, I can find them in rural areas, I am sure in Arkansas and North Carolina. There are many small town hospitals which are threatened with going out of existence. They are going to leave.

In one part of my State, as I traveled around, I said in Calhoun County: What does it mean if that local hospital closes? They said instead of a woman traveling 40 miles to deliver a baby, it is 75 miles. I have been through that three times with my wife, and the prospect of getting in a car and driving 75 miles when she thinks the baby is on the way is something no father, no member of any family can look forward to. That is the real world affect of this amendment.

If we do not provide the assistance through Medicaid for those hospitals and those doctors, we are going to say to some parts of America, whether it is inner-city or rural America: You are going to find a dramatic decline in the services and quality of service available to you.

The block grant which Senator ROCKEFELLER proposes to the States is also going to help us in providing a variety of social services. This increase in Federal support is essential if we are going to honor our commitment to act as partners with our States to help our Nation's most vulnerable people.

I urge my colleagues to support Senator ROCKEFELLER's amendment and to increase Federal assistance to States that are struggling to make ends meet. This increase in Federal support is long overdue. We first started talking about it last November. Senator ROCKEFELLER and I tried to include this in the energy package, if I am not mistaken. That was one of our efforts. We cannot delay it further.

Anyone who opposes it—I hope no one does—if anyone opposes it, come forward, make your argument, suggest your own amendment, but for goodness' sake, let's not let this important issue slide by. There are literally people in communities across America who are dependent on our good work, and if we do not respond to this national emergency, there are families and people who will suffer.

I thank Senator ROCKEFELLER for his leadership on this issue. I ask unanimous consent to be shown as a cosponsor of the amendment.

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

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I wish to say a special thanks to Senator ROCKEFELLER who has been tireless in this effort on behalf of his constituents in West Virginia. The similarities in our States have certainly given me a wonderful partner in fighting on behalf of this issue. We have been fighting to increase Arkansas' share of Medicaid dollars since last fall.

I remind the Senator from West Virginia that back in November, when we were taking up the stimulus bill in the Finance Committee, we tried even there to offer this type of an amendment, to recognize the shortfall in our rural States and the problems they were suffering at that point. We know

that in terms of stimulating the economy, it is pretty hard to go to work if you are sick and cannot get health care. It is pretty hard for children to learn and become a great part of the future leadership and the future workforce of this country if they are sick and cannot go to school.

Back in February, we argued to get it into a slimmed down stimulus package, but we did not pass it there either.

I worked with Senator ROCKEFELLER to try to amend the energy bill, but we did not get a vote on that back in March. Again, in April, I cosponsored stand-alone legislation with Senator ROCKEFELLER and Senator SMITH, and in May I cosponsored stand-alone legislation with Senator COLLINS and Senator NELSON.

We have been working on this issue for quite some time. We recognized last fall when many of our State Governors were having to take cuts that those who were most vulnerable in our society were going to be hurt the most, and we needed to do something and we needed to act.

I am a proud cosponsor of the amendment before us in which the two previous proposals I mentioned have been merged. I thank my colleagues, certainly Senator ROCKEFELLER, Senator SMITH, Senator COLLINS, and Senator NELSON for their leadership and their perseverance.

In times of tight budgets and economic downturns in our States, States are cutting their Medicaid budgets, and we are seeing it right and left across this country. Who suffers because of this? Our most vulnerable citizens: Our low-income families, our children, and our senior citizens.

Medicaid funding plays a critical role in senior care, with two-thirds of the residents of America's nursing homes depending on Medicaid payments for their care. But many States, including Arkansas, are facing real budget crunches with their Medicaid budgets. We are seeing, because of a multitude of other medical underpayments, whether it be UPL, whether it be physician payment reimbursement cuts, whether we are talking about ambulance provider fee schedules, we are looking at a crisis in rural America in the delivery of health care.

It is a serious problem that we are facing now, but if we do not do something pretty quickly, we are going to see some devastation. I have heard from hospitals in my State that are going to, in the next couple of months, stop providing OB care. I have constituents at that point who will have to travel 90 miles to get obstetric care. We are going backward, not forward, in providing the health care across the board in rural areas, as well as urban areas, that is so necessary to the quality of life that each American deserves.

In Arkansas, our population of seniors is a snapshot of where the Nation is going to be in the next few years. So we are already facing the challenges with which other States will have to contend, the challenges that other States will have to face in the next 10 to 15 years.

It is also true that we have a disproportionately high number of seniors living in poverty, and many of them rely on Medicaid funding for health care and long-term care. Especially in rural States such as Arkansas where health care services are harder to come by, Medicaid makes a huge difference in helping families afford care for their seniors.

We need greater investment in Medicaid funding to States, especially at a time when our States are in such a devastating budget situation.

The bills I have helped introduce in the Senate will adjust the FMAP level so that States can benefit from greater Medicaid funding, which will go a long way toward helping our most vulnerable citizens, particularly our seniors.

I appreciate the support I have received from our colleagues today, those who have worked tirelessly on this issue. And I can tell you that we will all keep fighting to get this done. No matter what barriers people may put before us, we are going to continue to make this fight. I think the fact we have been doing it since last November should indicate to our colleagues that this is essential, we know it is important, our constituents know it is important, and the rest of the Senate must learn that it is important enough for us to act now.

Under this amendment, Arkansas stands to gain $80 million over 18 months. This is a much needed injection into our economy and into the quality of life of our most vulnerable citizens.

To my colleague from West Virginia, I thank him so much for his leadership on this issue. I have enjoyed working with him since last fall, and we are going to continue on this effort because we know how important it is to the lives of the people we represent in this body. It is so important we move forward as quickly as we possibly can.

I thank the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, for 60 seconds, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from Mississippi, Mr. COCHRAN, be added as a cosponsor of the Rockefeller-Collins-Smith, et cetera, amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

MOMENT OF SILENCE TO HONOR OFFICER CHESTNUT AND DETECTIVE GIBSON

The PRESIDING OFFICER. Under the previous order, the Senate will now observe a moment of silence to honor the memory of Officer Chestnut and Detective Gibson.

(Moment of Silence.)

Mr. ROCKEFELLER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, Senator DASCHLE and I and other members of the leadership of the Senate have joined the House of Representatives at the memorial entrance to have a moment of silence in memory of Officer Chestnut and Detective Gibson. I know that moment of silence was honored in the Senate. We do not want this moment to go by without making some specific remarks.

We remember today with fondness and in prayer and everlasting gratitude the sacrifice of two great men of peace who lost their lives in the line of duty in our Capitol 4 years ago at precisely 3:40 p.m.

Officer J.J. Chestnut and Detective John Gibson were part of our congressional family, a family whose security was their life and for whose safety they died.

On July 24, 1998, our gift of freedom was challenged every bit as determinedly as it was on September 11. And just as the Nation witnessed on September 11, we saw on July 24, selfless protectors and guardians rise to the defense of the liberty of all Americans. No one who was in the Capitol that day 4 years ago or who revels in the triumph of democracy that this great dome symbolizes could help but be affected by the profound heroism of these fallen comrades, Officer Chestnut and Detective Gibson, and also of the courage and the dedication and the loving of their families.

We cherish their memory and gratefully accept responsibility every day of proving ourselves worthy of their example and the cherished gift of freedom they left us. Our thoughts and prayers and gratitude are with the Chestnut and Gibson families today and every day.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. This is a sad day for the Capitol Hill family. Four years ago today, two very good men—two members of our Capitol Hill family, Officer J.J. Chestnut and Detective John Gibson—were killed defending this Capitol Building.

As Senator LOTT has noted, a few moments ago we paused for a moment of silence to pay tribute to these fallen heroes for their selfless service and their enormous sacrifice.

Just before that moment of silence, there was a ceremony at the memorial door entrance to this building. Under the bronze plaque that bears the names and likenesses of Officer Chestnut and Detective Gibson, we laid roses in their honor.

Yesterday at that same spot someone left another tribute: a small basket of red, white, and blue flowers. Attached to the basket was a card. Inside the card was a handwritten note that read: We will never forget. You were my friends. God bless. It was signed by a member of the Capitol Police Force.

Also yesterday John Gibson's beloved Boston Red Sox trounced the Tampa Bay Devil Rays 22 to 4—in the first game of a double hitter, no less. So I know John Gibson is smiling up in heaven today.

And even though the gardening he loved is struggling in this heat and drought, I am sure J.J. Chestnut is right there with him—smiling, too.

For those of us down here who knew them, it is a little harder to smile today. The great poet Emily Dickinson wrote, after someone you loved dies, you feel ''the presence of their absence everywhere.''

The absence of J.J. Chestnut and John Gibson is felt today by many people, by their friends, their fellow officers, most of all by their families, their wives and children, and in Officer Chestnut's case, his grandchildren. The Gibson and Chestnut families have felt the presence of the absence of John and J.J. for three Thanksgivings and three Christmases, at too many birthday parties, weddings, and graduations.

Those of us who work in the Capitol want the Gibson and Chestnut families to know that in all those moments our hearts have been with them. We also want them to know that we, too, feel the presence of the absence of their loved ones. We feel it when we pass the memorial door entrance. We feel it when we see Capitol Police officers working double shifts to protect us. We felt it on September 11 when our Nation was attacked and on October 15 when the anthrax letter was opened.

During this past year, we have all been reminded with terrible certainty that there are people in the world who would like to destroy this building, the people's House, and the government and the ideals for which it stands. We also know with absolute certainty that as long as there are patriots such as John Gibson and J.J. Chestnut who are willing to sacrifice their lives to defend our freedom and safety, this people's House and this great Nation will endure.

As the note on the basket said: We will never forget. They were our friends and our protectors. God bless them today and always.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

The Senator from West Virginia.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

Mr. ROCKEFELLER. Mr. President, understanding the gravity of the moment, I do not want to leave a very important piece of legislation. Before I say a word, I would like to add Senator ZELL MILLER as a cosponsor to the amendment and I ask unanimous consent.

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

Mr. ROCKEFELLER. Mr. President, as I look at the situation, we have a whole lot of meetings going on around this Capitol—conference committees on trade, conference committees on prescription drugs. We have a generic drug bill. That is the underlying bill here with a prescription drug amendment attached to it. We have a Federal matching Medicaid amendment which I am offering. There is so much going on on health but there is so little that is going on on health, and it perturbs me.

Senator DURBIN, when he was talking, pointed out the importance of Medicaid to hospitals, nursing homes, and others. It makes it extremely important for me to note that in the State I represent, 80 percent of our hospitals are losing money. They are mostly rural hospitals, and most of them depend upon Medicaid and Medicare in combination, usually at 85, 80, sometimes 75 percent of their total reimbursement of everything that they do. That is the nature of the State I represent. So many others are like that. It is the nature of part of the State that the Presiding Officer represents.

So the question of are we doing Medicaid and reimbursing States so they can keep their health facilities open and Medicaid available to their people is a profoundly important matter. But we treat it as if it were not.

We are trying our best to come to an agreement on prescription drugs. There is no particular compromise in sight at the moment. We had two votes yesterday. Both failed. The American people ask us: What are you doing about health care for our people? My people ask, What are you doing about health care for our people? What am I to answer? What am I to tell them?

I can refer, if I want, to the catastrophic health bill experience of a number of us, where we had a terrific bill that the House turned down three times, the Senate refused to turn down three times. But the point was that we finally had to yield, and there was no catastrophic health care bill.

Then we had something called the Pepper Commission where we came up with a very good solution for both long term and acute care, and it went nowhere. It was declared dead on arrival, and those who so declared it were correct. Nothing happened.

Then we had the very large health care experience of the early 1990s when everything got very politicized. The result was twofold: One, that we passed nothing on that health care bill; and, two, everybody retreated inside their shells. Nobody seemed to want to take up health care, and health care became something that somehow, either politically or for whatever reason—because it was complex—people did not want to undertake.

Senator Jack Danforth and I, and now Senator FRIST and I, started something called the alliance for health reform. The whole idea was to get those who did not serve on the Finance Committee more acquainted with the intricacies and difficulties of what is a very difficult problem; that is, all the acronyms and complexities associated with health care. Now there are a lot more people who know a lot more about health care, and we are still not getting anything done.

Now we are talking about the Federal matching adjustment for Medicaid to our most vulnerable people, to people to whom, we go to our Jefferson and Jackson Day Dinners, when we appeal and bring out emotion and speak emotionally, and then when we come up here, we do nothing to help them.

I put this amendment on the floor with endless cosponsors. I am looking at SUSAN COLLINS, a good Republican from Maine, and there she stands, perhaps ready to speak, and she and seven other Republicans are cosponsors of this amendment. Senator ZELL MILLER just became a cosponsor. So we have, I don't know, 35, 40 sponsors.

I come to two conclusions. No 1, I think this amendment is going to pass and that there may be those who are not coming to this floor to speak against it because they do not want to because they know their Governors feel so passionately about it. Whether they be Republican, Democratic, or Independent, Governors are absolutely passionate about passing this amendment. But they cannot do it. We have to do it for them.

We are not doing universal health care. We haven't done anything on prescription drugs yet. We have not done a generic drug bill yet. We have not done anything about importation. We passed a bill—the White House said they do

not want to implement it—about bringing drugs in from Canada, produced here, at a lower cost.

So we are talking, debating, having compromises, having caucuses, and we are not accomplishing anything. Here is an amendment in which we can do something real for the people in our States who need it. They are not just children, but that is a very basic part of it. It is also reimbursement for hospital facilities. It is reimbursement for skilled nursing facilities, for nursing homes. And they need it more than ever because Medicaid is the one program in government, other than the Veterans Administration, which does have prescription drugs. It does have prescription drugs.

As the Presiding Officer has said so many times so eloquently as the leader of this fight, the cost of prescription drugs has been going up in a terrifying manner in these last several years. Who bears the brunt of that? Medicaid. Medicaid bears the brunt of it. And here we are trying to do something which the States cannot do for themselves, which we can do for them, which they are unanimously—Republicans, Democrats and Independent—on record unanimously wanting.

I stand here on the floor accompanied only by a distinguished Senator from Maine and the distinguished Presiding Officer. I find this perplexing and troubling. Are we risk averse? Have we become risk averse? That is a health care term. Maybe it ought to be a Senate term. Have we become afraid of doing things which require tough votes?

As the Senator from Illinois said, this is a very easy process. People put legislation forward, it goes through committees or doesn't go through committees, it comes to the floor, doesn't come to the floor, but if it comes to the floor, then you have a chance to vote on it. If people want to filibuster it, then you can file a cloture motion, you wait 2 days, and you get a vote on it. People have to eventually vote up or down, or else, as the Senator from Illinois said, they should not be in this profession.

I conclude with a sense of awe and tremendous anger, I would say to the Presiding Officer. I started out my career in public life—which I never intended to enter and which my parents were not fond of as a career. They were not pleased as I entered it as a career.

I went to a little coal mining community in the State of West Virginia which was nothing but people who had no health insurance, who wanted to work but had no job, who wanted to go to school but had no bus. They had one 1-room school through the sixth grade, 1 through 6, lined up row by row, just in a row.

They fed me; they took care of me; we worked together; we developed community programs. They had something called the dollar-an-hour program in West Virginia. You went out and you worked and you cleaned up the roads—men for the most part, at that point—and you got $1 an hour. Glory be, you got 8 hours a day. Any health insurance? Of course not. Nobody had health insurance. No one had health insurance.

That seared my soul then, and it sears me today, and it sears me as I talk now, as we sit here and avoid a chance to vote on something with which we can immediately help our States and our people. Are we only to legislate on Afghanistan or broad national concepts or are we here to help people? Is there something wrong, in fact, about actually doing something which would help people?

Some people say it would because it would cost money. Then why was it they put this in the emergency supplemental? They put the Medicaid match formula in the emergency supplemental because it was considered that important to the country. And now here we are, 9 months later, 10 months later—whatever it is—and we have done absolutely nothing. This Senator is tired of it. This Senator is very pleased to note that, with eight Republican cosponsors and a whole lot of people waiting to vote for this, there is a cloture motion being filled out, and we are going to vote on this, and we are going to show the people of our States that we care about our children and our families, our prescription drug programs, and that we are not risk averse. We are quite capable, yes, of helping people when it comes to health care. We have not shown that very much in recent years. We are going to show it this time.

I yield the floor.

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

Ms. COLLINS. Madam President, I share the concern of the Senator from West Virginia that we should not delay action on this important matter.

Support for our proposal is growing with each hour. I am excited about that. This proposal offers real relief to our State governments that are struggling with budget shortfalls. But, most importantly, it offers the promise that low-income families who depend on Medicaid will not face a cutoff of some of their important benefits.

The Senator from West Virginia raises a very good point. There are health care providers in my State, as well as his, rural hospitals in particular, that are struggling to make ends meet. The threat of Medicaid cuts imposed by States trying to balance their budgets during this very difficult fiscal time poses a threat to their ability to continue to provide quality care.

That is why we have the support of so many health care provider groups.

I am going to read from some of letters that we have received that endorse our proposal. In some cases, the letters speak to earlier legislation that I introduced along with my friend and colleague, Senator BEN NELSON of Nebraska. But, as I said earlier, we have pooled our efforts because we want to get relief to the States as fast as possible.

Let me tell you what our visiting nurses say about the importance of providing this relief.

This is a letter that I will read from the Visiting Nurse Associations of America. It is signed by the president, Carolyn Markey.

She writes:

On behalf of the Visiting Nurse Associations of America (VNAA), I would like to express our strong support for you and Senator Ben Nelson's proposed legislation that would provide temporary fiscal relief to states for Medicaid-covered health care services. VNAA is the national membership association for non-profit, community-based Visiting Nurse Agencies (VNAs), which collectively care for approximately 50% of all Medicaid home health patients each year.

VNAA is concerned that approximately one-half of the states across the nation have had to cut their FY 2002 Medicaid budgets in order to avoid a budget crisis. We fear that the majority of states will implement additional cost-containment measures, including reducing benefits, increasing beneficiary cost-sharing and further reducing Medicaid reimbursement to health care providers.

On average, Medicaid already reimburses providers significantly less than the cost of care.

That is an important point. There are already reimbursement levels that aren't covering the cost of providing this essential care.

The letter goes on to say:

VNAA's 2001 data shows that, collectively, VNAs are incurring an average $565 loss per Medicaid patient, with an annual loss of $148,500. VNAs' mission is to provide care to all eligible persons regardless of their condition or ability to pay. Because of this mission, VNAs will attempt to continue to admit all eligible Medicaid beneficiaries, but subsidizing Medicaid will force VNAs to cut other social service programs that are funded through charity contributions, such as Meals on Wheels and preventive health clinics.

Your legislation is sorely needed at this time. It would help states maintain eligibility and program levels in order for low-income families, children, seniors and persons with disabilities to continue to receive the health care they need. It will also prevent the exodus of some providers from Medicaid participation, and prevent other providers from having to cut vital community-based social services.

Those are the stakes. The stakes are high.

I ask unanimous consent to have the full text of the letter from Carolyn Markey, the president of the Visiting Nurse Associations of America, printed in the RECORD.

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

VISITING NURSE ASSOCIATIONS OF AMERICA,
Washington, DC, May 29, 2002.

Hon. SUSAN M. COLLINS,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the Visiting Nurse Associations of America (VNAA), I would like to express our strong support for your and Senator BEN NELSON's proposed legislation that would provide temporary fiscal relief to states for Medicaid-covered health care services. VNAA is the national membership association for non-profit, community-based Visiting Nurse

Agencies (VNAs), which collectively care for approximately 50% of all Medicaid home health patients each year.

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Thank you for all you do for the nation's most vulnerable populations.

Sincerely,

CAROLYN MARKEY,
President and CEO.

Ms. COLLINS. Madam President, I see the Senator from New York is in the Chamber. If he would like to speak on this issue at this point, I would be happy to yield.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I thank my colleague from Maine, and I thank her for her leadership on this bill.

I thank the Senator from West Virginia for his sponsorship of this important legislation. He has done a great job on every aspect of this proposal. I want to once again clarify for the record the help he has been not only on this issue, not only on adding prescription drugs to Medicare, but on generic drugs as well. We all owe the Senator from West Virginia a debt of gratitude for the great work he has done on the generic drug issue.

This is an extremely important amendment that I am proud to support. My State, as so many of the States, is in fiscal trouble. We have found great difficulty in doing what we have to do. Our State tends to be a generous State in terms of health care benefits. Programs enacted throughout the years make our Medicaid benefit generous. We have gone beyond Medicaid. We tried to help a little bit on prescription drugs with the Epic Program, as I know 17 other States have done a little bit here and there. We tried to help in a whole variety of ways.

During times of prosperity, we do quite well. But, obviously, the attacks of September 11, which cost us dearly in terms of life, and then secondarily in terms of dollars, as well as the downturn in the financial markets, which probably hit our State harder than any other, have caused real problems. If there was ever a time that this amendment was appropriate for New York, it is now.

I think the amendment is appropriate to all of our States. Not only are they all under fiscal strains—my State may be under greater strain than others—but we all know that Medicaid spending is probably the fastest growing part of most State budgets. It is certainly mine.

I would add one other point about New York. Our localities will get help, if this aid passes, because we are one of the few States where we ask the localities to pay half of the non-Federal share of Medicaid. In other words, we are 50–25–25. A city such as New York that is straining—our budget deficit is about $4 billion in the next fiscal year, it is estimated, and some estimates go as high as $5 billion—would also get a real shot in the arm. Our communities upstate are hurting because of the poor economy—Buffalo, Albany, Rochester, Binghamton, and Utica are all hurting and need the help as well.

Certainly, the amendment is needed from a fiscal point of view. Certainly, it helps the Medicaid Program meet the promise that was made early on in terms of its help. It is appropriate that it be added to this bill.

If you ask the States the No. 1 cause of their fiscal problems, most of them would say it is Medicaid. Then, if you ask the head of Medicaid in each State what the No. 1 reason is for costs going up, that person would say prescription drugs. In fact, Medicaid drug costs nationally have increased 18 percent every year for the past 3 years. That is something that cannot keep going on.

Our States are now faced with terrible choices—either go more deeply into debt or cut benefits to the most vulnerable. That is something we really do not want to do.

I support the amendment. It would be a tremendous shot in the arm for New York. It would be a tremendous shot in the arm to all State governments. And it is the right thing to do.

The cost is large. I believe it is something like $8 billion. But the benefits are larger still.

Every time any part of America has a child who doesn't get the appropriate coverage, it sets him back or her back—it sometimes sets the family back in ways from which they never recover. The fact that our country has decided to say health care for everyone is important—and not say because you have no money you should get no health care—is one aspect that makes us a great country. The fact that today we are saying that during this time of crisis, the Federal Government will step up to the plate and fulfill its role is really important.

Let me go over the numbers for New York.

In fiscal year 2002, if the Rockefeller-Collins-Nelson amendment were adopted, we would receive, in terms of our Medicaid help, $244 million. This is the temporary FMAP increase. In 2003, we would receive $553.8 million. That means, for the total of the 18 months—the second half of 2002 and all of 2003—it would be $797.8 million.

In terms of temporary grants, we would get an additional—these are available through 2004—an additional $461 million.

That is $1.2 billion. That is real help. That is not just a nice little bauble around the edges. And it could not come at a more appropriate, needed time in my State.

So I say to my colleagues, you all have your problems in your States. We have our problems in New York. Let's unite. This amendment is a bipartisan amendment. Let's unite and adopt it.

Let's make sure that our poor people get the medical help they need. And let us say to the States that during these extremely difficult times—as I say, made doubly difficult in New York because we were the epicenter of the 9/11 attacks—we are not going to punish you because of your generosity in helping the poor attain some modicum of health care.

So I am proud to support the amendment. Again, I compliment my colleague from West Virginia, who has been such a leader on this issue, as on so many others. I thank my colleague from Maine as well.

I look forward to quickly adopting this amendment as part of our base bill which, as you know, I am proud is the bill that Senator MCCAIN and I introduced in terms of generic drugs.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Ms. COLLINS. Madam President, the National Partnership for Women and Families has issued a statement today endorsing the amendment I have offered with Senators Rockefeller, Ben Nelson, and Gordon Smith. It includes some very important information that helps us better understand why this debate is so important.

The National Partnership cites the National Governors Association's May report that over 40 States are facing budget shortfalls totaling $40 to $50 billion overall.

Since Medicaid makes up, on average, 20 percent of State spending, it is often the first place that States look to make cuts. So our amendment would provide $9 billion in total fiscal relief that would help sustain critical State Medicaid Programs and bolster the States' ability to keep providing vital social services to those most in need.

Let's look at whom this benefits.

Medicaid provides health insurance to approximately 40 million low-income Americans, including 21 million children and young adults, 11 million elderly and disabled individuals, and 8.6 million adults in families, most of whom are single mothers. That is the population that is hurt when Medicaid budgets are slashed. That is the most vulnerable of populations. They need our help.

The States need our help in order to maintain vital health care services for those 40 million low-income Americans. Without this critical safety net, millions of women and their families would be left with no health insurance at all.

So that is why we must act. And we must act before more time elapses and more States are forced to cut their Medicaid budgets. Time is of the essence.

I urge my colleagues to join with us in supporting this absolutely critical bipartisan proposal.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Nebraska. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. NELSON of Nebraska. Madam President, the proposal that is before the body today, to enhance the partnership between the Federal Government and the States with regard to Medicaid and with regard to welfare reform and social services that are so critical to the most vulnerable in our society, is a very important piece of legislation.

It merits our total support, not because it is just about money but because it is about doing the right thing to continue the gains and not see a spiral downwards back to welfare for those who have been able to make it to the workforce. It is for those who are teetering on the brink who would, if their eligibility for Medicaid were taken away, be unable to support themselves and/or their families. It is for the seniors who need, so much today, the kind of support the Medicaid Program provides when they are in nursing homes.

So it is about people. That is what it is truly about. It is about doing the right thing. It is continuing the relationship and the partnership that has been developed between our Governors, our State legislatures, and our Federal Government. It is an important partnership that must be maintained.

It is also important that we recognize it is a temporary fix. It is not a permanent solution. No one is expecting that kind of a permanent solution today, given the temporary, and hopefully only temporary, nature of the downturn in the economy. But it is essential we do something soon because of the plight of the States and the experience they have in terms of not being able to meet all of their obligations as they move forward on these programs.

The truth of the matter is, we can work together with the States as we have in the past. Many of our colleagues here, as you know, are former Governors. You may be able to take us out of the Governor's office, but you cannot take the experiences we have gained in that position away from us simply because we have changed our titles or we have new responsibilities.

It is important, also, that we recognize that the States, in making these tough decisions, will have to make them on the basis of how they balance their budgets because all but a handful have to balance their budgets and can't have deficit spending. So they either balance their budgets with major cuts or with tax hikes or with a combination.

In any event, most of the States have made the cuts they believe they can make, up until this point, without affecting Medicaid. But as their budgets continue to flow with red ink, now they are looking at these social programs for the necessary cuts. They have cut education. They have cut many of the other essential programs. Now they are faced with cutting this program.

So if we wait until they have made the cuts, there will be the casualties of those who are not able to have the benefits—the elderly, the young people, those who in our society today are reliant on the availability of these programs.

We have asked people to work their way out of welfare, to join the workforce. We have created at the State level, with welfare reform at the Federal level, the opportunity for people to transition out of the levels of poverty and welfare, with the opportunity to join the workforce. We have done it with transitional benefits that are comprised of child care, some Medicaid continuing coverage, so these individuals and their families have the capacity to leave the welfare rolls to join the workforce.

If we pull back on these and other programs like it, they will teeter, and it is very likely that they will fall back into the welfare situation. While already experiencing higher unemployment levels than we have experienced over the last 10 years, we see that the growing population of Medicaid is putting more pressure on Medicaid expenditures at the State level.

I remember looking at the growth of Medicaid and the opportunities that were there to try to reform it and to make it so it worked not to create incentives for unemployment but opportunities for employment and incentives for joining the workforce. But when you see it today and you see the growth in this program, you recognize that something must be done in order to stem that growing tide.

The truth is, we can and we should do this. There will be some who will say we don't have an obligation, a further obligation to the States. But it is not about just from one government to another; it is about to the people of the United States who have the need for these very important benefits. Those are the people we need to be supporting. In supporting them, we work through the States in our partnership.

That is the opportunity we have. I hope if there are some who have a different, opposing point of view, they will come down to the floor and explain why they don't think we ought to support this Federal Medicaid assistance program on a temporary basis to permit the States to continue to support the kinds of programs that are important to the most vulnerable of our population. I hope they will come to the Chamber so we have the opportunity for a full debate and so, if there are opposing views, we will be able to respond to them rather than speak to an empty Chamber. That is not what this should be about. If there is to be spirited debate, I hope we will have that begin in the near future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I would like to direct a question through the Chair to my friend from West Virginia, the author of the amendment. I was here about an hour and a half ago. I ask the Senator from West Virginia if anyone has spoken against the merits of his amendment.

Mr. ROCKEFELLER. I say to the Senator from Nevada, I am not sure, but I believe Senators have been here discussing it favorably for 2 to 2½ hours. Not a single Senator has come to the floor opposing this amendment.

Mr. REID. I say to my friends, whoever opposes this amendment, I don't know where they are. We were told by one of the sponsors of the amendment, the distinguished Senator from Oregon, Mr. SMITH, that he didn't oppose it, but he, on information and belief, understood that the senior Senator from Texas opposed the amendment. I would hope that my friend from Texas, if that, in fact, is the case, would come here and defend his position. I will say that if that isn't the case, that I will ask for the yeas and nays and move forward on the amendment. It is just simply not fair.

We have an order in effect that as soon as this amendment is completed, we would move to something that Senator GREGG or someone he designates would offer. And then following that we have a Democratic amendment in order. We should move through those. I hope that if there are people other than the distinguished Senator from Texas who oppose this amendment or the Senator from Texas, that they would come to the floor and explain themselves.

I will say that I am getting the feeling that this is one of those kinds of

stealth oppositions we get around here a lot of times. People know this is a good amendment, supported by the Governors of the States, supported by people in the States who are desperate for dollars. States are suffering. I think there are people who would like to come and oppose this, but they really don't quite know why. So they just stay away hoping it will go away.

It is not going to go away. If I come back here again and there is no one within a reasonable period of time who has voiced any opposition to the amendment or there is no one on the floor speaking against it, I will ask for the yeas and nays and move on to something else.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, the National Governors Association has written a letter, dated July 24—very current—to the minority and majority leaders of the Senate strongly urging support for the Rockefeller-Collins-Nelson-Smith compromise.

I ask unanimous consent to print it in the RECORD.

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

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, July 24, 2002.

Hon. THOMAS A. DASCHLE,
Majority Leader, U.S. Senate, The Capitol, Washington, DC.

Hon. TRENT LOTT,
Minority Leader, U.S. Senate, The Capitol, Washington, DC.

DEAR SENATOR DASCHLE AND SENATOR LOTT: The nation's Governors strongly support the Rockefeller-Collins-Nelson-Smith compromise state fiscal relief legislation. We urge its consideration as an amendment to S. 812 on the Senate floor and its swift passage into law.

The legislation to temporarily increase the federal share of the Medicaid program as well as provide a temporary block grant to states will assist during the current fiscal crisis so that states will not be forced to make deep cuts in health, social services, and even education programs. It will thus ensure that low-income vulnerable families are protected from drastic cuts in these key programs.

One of the major contributors to the rising state Medicaid costs is prescription drug expenses. Immediate Federal assistance with these costs would provide real fiscal relief to the states. We urge timely Senate action on the Rockefeller-Collins-Nelson-Smith amendment.

We would very much appreciate your support and we look forward to working with you to ensure that meaningful state fiscal relief legislation is enacted.

Sincerely,

PAUL E. PATTON,
Governor.

DIRK KEMPTHORNE,
Governor.

Mr. NELSON of Nebraska. 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. WYDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WYDEN. Madam President, the Senator from West Virginia, in my view, has outlined a very important position with respect to a critical health issue for the States. I commend him for his outstanding work. It is going to make a difference in Oregon and across the country.

I ask unanimous consent to speak for up to 10 minutes as in morning business.

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

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

Mr. WYDEN. Madam President, I am a strong supporter of the Rockefeller amendment which will make a huge difference for our States at a time when the situation is truly dire with respect to health care. So I thank my colleague. When we get to a vote on the Rockefeller amendment—I know Senator NELSON of Nebraska has done excellent work on this as well—I hope the amendment will pass with a resounding majority.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GREGG. Madam President, I wanted to speak on a couple of issues. First is the underlying effort here to pass major legislation in the area of assisting senior citizens, specifically, with the cost of their prescription drugs.

I think we all understand very well that there has been a fundamental shift in the way medicine is practiced in our country, and it has been a positive shift. That shift is that we have gone from a society which had basically as its first line of defense for significant health concerns an invasive medical procedure using a scalpel, to a society which has as its first line of defense for major medical concerns the use of pharmaceuticals. This has been a revolution, a biotech revolution.

As a result, it is not so much that pharmaceuticals have become more expensive—but not outrageously so, with respect to inflation and other costs—but they have become so much more aggressively utilized. As a result, senior citizens and all citizenry that have medical concerns are finding that they are more often than not going down to the pharmacy and purchasing a pill in order to address a physical ailment versus going into the hospital and receiving some sort of remedial medical care that might involve an operation or some sort of therapy within the physical confines of a hospital. So utilization has gone up dramatically in the area of pharmaceuticals. This is a change in the way we practice medicine as a country.

The practical effect of that is that all Americans, but seniors especially because as a practical fact, as people begin to get older, they have more health needs in most instances.

Seniors are finding themselves more and more put into the situation of having to purchase pharmaceutical goods, which are adding up, and because there is more significant utilization, they are expensive and sometimes unaffordable, especially to low-and middle-income seniors. So we as a Congress and the President are attempting to address this through passing some sort of a package that will give senior citizens the opportunity to take some of the pressure off of the cost of this new need to use prescription drugs.

The goal, in my opinion, should be basically twofold: One, to assure that low- and moderate-income seniors—especially low-income seniors—who find it virtually impossible to fit into their budgets, which are usually very constricted, the cost of pharmaceuticals, to allow those individuals to receive assistance as they have to purchase these medications; second, to address the situation where a senior who has reasonable income and reasonable wealth confronts a catastrophic situation where simply the cost of medication exceeds even their capacity to pay for it. Those should be our two primary goals as we put together this package of relief for senior citizens, in my opinion.

Also, there are a lot of secondary goals. Secondary goals should be—and it is fairly significant—that we do not undermine the ability of our society to bring new drugs to the market.

As a society, we have basically become the creators of most of the major new pharmaceuticals that are created in this world, and that is because we have a vibrant research capability going on in this country and a vibrant commercialization of goods and products which are created within that research market. It is important that we not kill the goose that is laying the lifesaving drug, as I said earlier, and that we allow the entrepreneurs in our society, who are research scientists for the most part, to evolve a capability of continuing to bring to market drugs which save people's lives and benefit people and make their lives better, and that we not in the process of developing a package of drug benefits end up creating an atmosphere which works against the bringing to market of new pharmaceutical drugs. That should be a subsidiary effort as we move forward to address the question of a drug benefit for senior citizens.

In that context, we are now working aggressively to try to pull together a

package. We have had three major votes on different drug packages. We had the Democratic proposal which, regrettably, was, in my opinion, fundamentally flawed because it did not meet the conditions I have laid out.

First, it was extraordinarily expensive, and I should have mentioned that as a fourth line of consideration, which is that as we put this benefit package in place for seniors, we should not have it created in such a way that it transfers a huge new cost on to working Americans, especially young Americans with young families, who are trying to make ends meet, who have other issues, such as education, housing, the day-to-day costs of raising a family.

We should not make the cost of this major new drug benefit so high that the tax burden to pay for it—which will fall on working Americans for the most part will significantly disadvantage working Americans in their ability to live a good life.

This new drug benefit is not like the Medicare proposals under which we presently work. There is no premium in most instances. Some have premiums, most do not. There is also no earned benefit—in other words, over the years people paying into the Part A insurance fund and building up a fund. In this instance, seniors are going to simply receive this benefit without it having been paid for through building it up over the years, paying through Part A. It is essentially going to be a tax. To pay for this drug benefit, there is going to be a tax levied on working Americans, especially young Americans, to assist senior citizens with the issue of how they pay for drugs.

We have to be very careful in putting this package together that we do not end up putting such a huge burden on young working Americans that it makes it very difficult for them to raise their families.

As I mentioned, there have been three votes on this issue in the Senate in the last few days. The first was on the Democratic plan. The Democratic plan failed in a number of areas.

One, it was extraordinarily expensive. It would have passed $600 billion—and that was the estimate. We all know estimates end up being low. For example, when Medicare was originally passed in the 1960s, it was estimated in 1990 to cost $9 billion. Medicare in 1990 cost about $70 billion. It was off by almost 1,000 percent. We know the $600 billion pricetag attached to the Democratic package is a pricetag which is probably low. Even if it were accurate, it is a huge pricetag to pass on to working Americans, younger Americans, and far more than we should put on the backs of the working American who is trying to raise that young family. It is far too high a burden on those individuals.

It is disproportionate in the way it deals with the intergenerational issues in benefiting dramatically, in terms of dollars spent, senior citizens at the expense of young Americans who are trying to raise a family. It exceeded the budget allocation by $300 billion, by 100 percent. There was $300 billion budgeted. This was a $600 billion package, which is far too expensive.

Also, it undermined the marketplace. It was a public program, which in and of itself is an undermining of the marketplace, but it was a public program which had an incredibly regressive element to it. It essentially said that you could only, for a certain ailment—let's take arthritis—purchase one type of drug for that ailment, one. There are probably 20 different drugs on the market to address arthritis. Why would you limit the ability of a senior to only purchase one and have it covered by insurance? It is a foolish idea from the standpoint that doctors may not want to prescribe that one drug, and it may not be medically a good idea, plus it is just not conducive to creating a marketplace which is going to bring more pharmaceuticals on to the market so seniors have more choices and that we drive down the prices of pharmaceuticals generally because we have competition.

It is truly a regressive idea from the standpoint of health care and from the standpoint of how you develop a strong and vibrant market for producing pharmaceuticals. That bill, in my opinion, was fundamentally flawed. Plus, of course, it had the little gimmick in it—rather large actually—that it was not a permanent benefit. It lapsed after 5 years. It would not exist anymore. I do not know what was going to happen then. It would be gone and who knew what was going to happen.

It was a black hole or a cliff proposal where everybody gets a benefit for 5 years and suddenly they look down and there is no more benefit and they have to step off the cliff into the abyss, not knowing what is going to happen. It was a poorly constructed idea and it failed because it did not get 60 votes.

The second idea that came through was the tripartisan proposal. Again, it is a fairly expensive proposal, $370 billion, but significantly less than the Democratic proposal, but much more reasonable in the way it approached the issue. It opened the marketplace. It gave seniors options as to what pharmaceuticals they could use.

Senator SNOWE was talking about how many more pharmaceuticals it covered than the Democratic proposal, dramatically more. I am not sure of the numbers. In any event, the specific numbers were that it covered far more specific pharmaceutical products, and made those available to seniors, than the Democratic plan—dramatically more.

In addition, it had language which significantly protected the low-income senior. It gave them basically a 90-percent subsidy and had positive catastrophic language.

That also failed to get 60 votes.

The third vote we had was on the Hagel-Ensign proposal, which is an idea I am attracted to, although I also voted for the tripartisan plan. It says what I have been saying. You take low-income seniors and protect them. You give them the ability to buy the pharmaceutical, you give them support to do that and it does not wipe out their income. The plan was very progressive in this way.

You say to seniors, who are in the general population, who are not low-income seniors: If you have a serious illness which throws you into a high-cost pharmaceutical situation, and you are spending a dramatic amount of your basic wealth, your income, your assets on pharmaceuticals, the Government will come in and pick it up. There was a catastrophic cap which the Government picked up.

Again, this was built in, as I understood it, in a progressive way so higher income people had to spend more than middle- and moderate-income people had to spend. It was very progressive in a thoughtful way. This idea made a lot of sense and got a very good vote. In fact, it got as high a vote as any other proposal that came to the floor. I hope from this idea we can evolve a package that can work effectively.

That is basically where we stand today. We have now had three major packages. None have passed because the sequence of events that are set up is that the Democratic leadership refused to take these bills through committee and created a situation where we could not pass them on the floor because they all required 60 votes.

Had Hagel-Ensign, for example, come out to the floor after having gone through the committee, with the vote it got on this floor it would have passed the Senate, and we would now have in place a drug benefit. It would not have been subject to a budget point of order because it was under $300 billion—just barely, $294 billion. That was not allowed to happen because of the way this whole exercise was set up, which is unfortunate.

Where do we go from here? It is my hope we will reach some sort of consensus on a catastrophic package, a package that takes care of low-income seniors and makes sure they have adequate coverage, that takes care of people who have a huge impact on their assets through a catastrophic event, and allows seniors who have moderate income, if they wish, to purchase the insurance if they want to cover the difference through some sort of Medigap insurance. This, to me, is a logical way of resolving this issue.

Independent of all that, however, we have had other amendments dealing with this bill. One of them is the amendment which we presently have before us which is a $9 billion bailout for the States—some States, not all States. States such as mine, which do not happen to meet the formula because we have been very frugal in the way we have managed our Medicaid accounts and, as a result, have kept our reimbursement at 50 percent, do not benefit a whole lot from this proposal.

For States which have been less effective in their ability to deal with Medicaid, this bill basically is a $9 billion bailout. Is the $9 billion offset? No, it will simply be a vote by the Senate which says we are going to spend another $9 billion on Medicaid to assist the States.

First off, this is the wrong place to bring forth this amendment. This bill started out as a generic drug bill. It has moved on to an all-inclusive drug bill debate, but it has always been a bill that has been debated in the context of Medicare and drug initiatives, and this is a Medicaid bailout, which is totally separate from the underlying issue of what we discussed in these other bills. This amendment should have gone through committee and should have been brought out here as a committee bill versus being brought out here separately.

Secondly, it sets a very dangerous precedent in that it waters down the FMAP formula even on a temporary basis. The purpose and fairness of the formula will be eroded over time. Around here, temporary changes rarely turn out to be temporary, although they claim it is temporary.

This amendment sets a precedent, and if it is passed, any State that ever faces an FMAP decrease in the future will lobby Congress to override the formula. Instead of an automatic process based on a fair formula, future FMAP rates will become a political fight in Congress, which is exactly what this exercise is.

It is basically an attempt to use the fact that a number of States believe they need more money and to pull enough people together from those States so there are enough to vote for this $9 billion bailout. It is called logroll. It is working very effectively on this amendment, I am afraid, which is too bad.

This is totally fiscally irresponsible. Such a process as this disrupts the whole process and will not likely produce a program that benefits those who need it most but, rather, States that have been most ineffective in managing their Medicaid accounts.

FMAP rates are not designed to change according to short-term economic developments. Although FMAPs are based on State per capita income levels and other economic indicators, they have not typically risen at all and with short-term economic trends. If State logic suggests raising FMAP now, then it would also apply to lowering them in times of economic boom.

If we had followed such a course after 9 years of economic recovery, current FMAP rates would be much lower than they are today. Such cyclical movements are contrary to the intent of Medicaid statutes and in the long term would serve the interests neither of the States nor the Federal Government to pursue this action.

States have other options to making Medicaid benefits more secure. States can take steps to make their benefits more efficient, enabling more persons to be covered with the same or lower costs using the health insurance flexibility and accountability initiatives unveiled in August 2001. The HIFAI demonstration is designed to help States reduce the number of uninsured through innovative and cost-effective approaches using Medicaid and CHIP funds. The initiative emphasizes private insurance options rather than public program expansions. To date, HHS has approved HIFAI demonstrations in Arizona and California, and it could approve more if more States are willing to be aggressive.

The simple fact is what we have is an effort by a large number of States that have had problems with their Medicaid accounts for a variety of reasons to basically raid the Federal Treasury to the tune of $9 billion. I guess they are probably going to have enough votes to do that because they have structured this formula so that enough States are going to pick up money from it that is significant. But I have to ask the question, Why are we not offsetting this $9 billion? Why are we just coming out and saying let's take another $9 billion hit on the Federal Treasury, in which we do not happen to have any money right now, and add that to the deficit? It makes very little sense from the standpoint of fiscal policy.

Fifty States have the power to energize this type of support for $9 billion. I would think they would have the power to go find money to offset it somewhere, but unfortunately they are not doing that in this amendment. It is an unfortunate, in my opinion, effort to raid the Treasury, as a result of which we will not only get bad policy but we will get a significant increase in Federal debt.

I yield the floor and make a point of order that a quorum is not present.

The PRESIDING OFFICER (Mr. MILLER). The Senator from West Virginia.

Mr. ROCKEFELLER. Am I correct in understanding that the distinguished Senator raised a point of order?

Mr. GREGG. No, I have not raised a point of order.

The PRESIDING OFFICER. He did not.

The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, the distinguished Senator from New Hampshire raised a number of very important questions regarding this FMAP proposal to expand the support that the Federal Government is providing to the States as part of the partnership that has existed for many years.

I think it would be very difficult to go back and tell our partners that we are unable to or we should not increase the amount of the Federal match because we did not follow the procedures that some people in the Senate believed we ought to follow. Inside baseball is not going to make those friends who are on the outside experiencing some major financial challenges very happy. They may not be very happy at all with that kind of an explanation.

I think it is important to remember how the Medicaid Program developed, as well as some of the social benefits programs that are also included as part of this bill. If the Chair remembers—and I know he does as a former Governor from Georgia—this was a big part of his budget. He probably was surprised, as I was, on the day we took office and put our budgets together to find out what a big piece of the pie this Medicaid Program amounted to as part of the budget. If the Chair remembers what happened, as I am sure he does, as do all former Governors, and I believe all of our colleagues do, this came about because of a Federal mandate. The Federal Government said we are going to have a Federal Medicaid Program and the States are going to be parties to it and the Federal Government is going to decide how much the Federal Government contributes to it, and the Federal Government is always going to be able to raise or lower the amount of the Federal match on the basis of a formula that has been established. The States, as the junior partners, have to go along with whatever the Federal Government proposes.

It was a mandate—not an unfunded mandate but an underfunded Federal mandate.

The States generally made innovative challenges, but I know the distinguished former Governor of Georgia will recall when States came to the Federal Government and said, we would like to make some changes to the program, you had to get a waiver and come back to Washington and ask, will you please allow us to make these innovative changes that our distinguished colleague from the Northeast was talking about that have been made in some areas. Many proposed innovative changes were denied.

It has been essentially a Federal program where the States have been the junior partner. In this situation, all we are saying is, instead of reducing the amount of the Federal match over the next 19 months, as it has been scheduled to be reduced in various States, we are going to hold that constant. In addition, we are going to add 1 percent to the State in the Federal match, so for 18 months we will help the States so they do not have to take away benefits from the most needy and most vulnerable in our society today.

It is recognizing we have a partnership. This was part of the stimulus package worked on this last year. It just did not survive into the ultimate stimulus package that was passed earlier this year. Last year and this year, when the stimulus package was being discussed, there was little talk about offsets. Now, when it is convenient to talk of offsets, in getting in a direction the way this is heading, we talk of assets. There is not anyone in this body not in favor of offsets, unless the whole discussion of offsets is designed to set this off the tracks so we can get it passed.

It seems to me what we have to do is recognize how the program began, how

it works, and what assistance this plan we are proposing today—how it will help the States and why it is necessary to help the States deal with our citizens, citizens of the United States of America who happen to reside in the various States.

It seems to me we do have a responsibility, that we can meet that responsibility, and, yes, I would love to have offsets, but I want to make sure the search for offsets is not what gets this off the track.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent I be allowed to speak for 10 minutes as in morning business.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. REID. Mr. President, what is the matter before the Senate?

The PRESIDING OFFICER. The pending question is the Rockefeller second-degree amendment.

CLOTURE MOTION

Mr. REID. Mr. President, 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 Rockefeller and others amendment No. 4316.

John D. Rockefeller IV, E. Benjamin Nelson of Nebraska, John Edwards, Paul Wellstone, Harry Reid, John F. Kerry, Blanche L. Lincoln, Richard J. Durbin, Jack Reed, Edward M. Kennedy, Susan Collins, Daniel K. Inouye, Patrick Leahy, Tom Daschle, Debbie Stabenow, Charles Schumer, Ron Wyden.

Mr. REID. Mr. President, I have been advised that Senators GRASSLEY and GRAMM wish to come to the floor and speak on the Rockefeller amendment. I am also advised that one of the Senators is going to raise a point of order, which we will attempt to waive. But we need them here to do that. I am sure they will be here soon.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

Mr. REID. Madam President, it is my understanding we now are on the Rockefeller amendment. Is that right?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Texas.

Mr. GRAMM. Under section 205 of H. Con. Res. 290, I raise a point of order against the emergency designation of section (c) of the pending amendment, No. 4316.

Mr. REID. Madam President, I move to waive section 205 of the Budget Act. I ask for the yeas and nays.

The PRESIDING OFFICER. The motion is pending.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Madam President, I have spoken to Senator GRAMM. He and others wish to speak. This is a debatable motion. We will set some time. Senator GRAMM has graciously acknowledged he doesn't want to speak too long since we already have a cloture motion filed. But we will shortly determine how much time will be needed and will debate this in the morning and vote sometime in the morning.

Hopefully, while we are waiting on the unanimous consent agreement to get the legislative branch appropriations bill, which also kicks in the fact that prior to next Wednesday—or on next Wednesday I should say, we will start debating the DOD appropriations bill.

So we have a lot to do in the next few days. This will move us down the road.

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

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

VIOLENCE IN THE MIDDLE EAST

Mr. WARNER. Madam President, I and other Members of the Senate from time to time have taken the floor to address the tragedies which daily, weekly, monthly, and yearly come forth in the Middle East. Today, we were greeted by a headline in the Washington Post: U.S. Decries Israeli Missile Strike, Ponders The Effect On The Peace Bid.

I ask unanimous consent that it be printed in the RECORD following my remarks.

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

(See Exhibit 1.)

Mr. WARNER. Madam President, again, I have taken the floor several times to give just one Senator's viewpoint. I am almost at a loss for words to describe the tragic situation that has unfolded in the past 24 hours, or 36 hours—whatever the case may be—where a plane that was manufactured here in the United States delivered a missile into a residential area controlled by the Palestinians and brought about the deaths of many innocent people.

It is characterized and described at length in the article which appeared in this paper and the papers across the world today.

The raid, as told by the reports, took the life of an individual who has brought about great harm to the people of Israel over a long period, but along with that life went the lives of many children and innocent people.

Preceding this use of force—again, use of force which is perceived by the Israeli leadership as necessary to protect the integrity of their sovereign nation and the safety of the people, and I will not debate that at this point in time—preceding this event were the tragic bombings by humans going into the Israeli areas with the bombs strapped to them giving up their lives and taking the lives of innocent people on the streets. And on and on it goes.

What do we do about it?

I reiterate that I have spoken about this on this floor several times, and I intend to this time formalize it in a letter which I will be sending perhaps tonight or early tomorrow morning to the President of the United States. The thoughts in that letter are basically the same thoughts that I have said on this floor two or three times, and also at the time that the NATO Ambassadors came to visit the Congress of the United States. We had an informal meeting hosted by several of our colleagues. I was invited to speak. The very thoughts that I am referring to tonight I shared in that meeting some 2 weeks ago.

Our Nation recently celebrated our traditional Fourth of July holiday. It is normally a time of joyful reflection of our history, of patriotism, and just plain, old-fashioned summer fun. Thankfully, it was a peaceful day for America. But when we entered that holiday period, I remember so well that we were confronted with yet another warning by responsible individuals in our Government of a possible terrorist attack. In varying degrees in varying places here in our great United States, it had a dampening effect. I remember that so well.

A number of constituents—who I am proud to represent in Virginia, which adjoins the Nation's Capital—called to inquire whether it was safe to go down and watch the fireworks on The Mall. We gave them encouragement, in our opinion, to do so.

I myself was in the area during part of that day. Indeed, there was an enormous outpouring of our citizens and visitors from all around the world who enjoyed those fireworks that night. I say that thankfully it was a peaceful day. But we ended that holiday period confronted with that warning.

It is, indeed, prudent that our citizens be warned of such threats. There is no criticism of what I believe is a very responsible and prudent program of persons in our Government entrusted to make the decision to alert our people when they have reason to believe because of intelligence gathering that they should promulgate those warnings.

I, however, have to ask myself: Do these warnings continue indefinitely? Will people begin to ask of me and my colleagues, of our President and of all those in positions of authority, what is the root cause of this hatred towards the United States? Are we in leadership positions doing everything we can to learn of those causes, to lessen that hatred, to tell the truth about America's cause for freedom, and how our men and women of the Armed Forces—as the Presiding Officer knows so well having served in the military himself—have gone forth from our shores throughout these 200-plus years of this Republic only in the cause of freedom—never have taken a square mile of property and kept it. Temporarily, we have administered certain geographic areas throughout our history, but never used force to acquire land to augment this Nation.

People will begin to say: Has our Government done everything it can do? I think our President has exhibited—in the past, today, and will in the future—extraordinary leadership, together with his principal Cabinet officers and his military men and women for whom he is Commander in Chief.

The scourge of terrorism in the 21st century is a complex and multifaceted problem. None of us fully understand all the root causes and all the means with which we have to deal with it.

This Chamber, hopefully next week, will resonate with a strong debate on the bill for homeland defense. We will soon be giving final approval to the division in the military of commander in chief, forces north. Just think, Mr. President, CINC, commander in chief, for homeland defense, which means marshaling all the military assets and other assets of this Nation to try to protect our citizens against further terrorist attack.

There is not a single cause for this terrorism and hatred but many, including disparate economic development around the world, lack of political and economic opportunity in many regions, the alarming spread of radical fundamentalist religions, the dogmas, especially Islam, amongst those feeling disenfranchised from the mainstream of the world, and the tyrannical rise of ethnic conflicts after decades of repression by communists and other tyrannical regimes.

In this environment of perceived hopelessness and despair for many people, particularly the world's youth, seemingly unsolvable events continue to fan the flames of anger and hatred that lead to irrational acts, acts which are almost beyond comprehension.

This is manifested in the individual acts of terror we witness almost daily on the streets of Israel against the freedom-loving people of the State of Israel and in the recruitment of angry young men and women into radical terrorist organizations that encourage them to vent their anger in most destructive ways, most notably human suicide of themselves and against the innocent citizens of Israel.

Israel really has no recourse but to strike back in a manner that clearly indicates not only to the Palestinians but to the rest of the world that it is a sovereign nation and has the right to exercise every possible resource of that nation to protect its people.

Solving the conditions that have bred this hate and total disregard for peaceful solutions will be complex, but it must be systematically addressed. Again, clearly, our President and his administration have shown leadership.

But is our Congress showing leadership to help? Can more be done by others? These are the questions I ponder daily.

Clearly, the Israeli-Palestinian conflict, prolonged over a period of time that none of us ever envisioned, contributes, in some measure, to the unrest and anger in the Arab world directed towards the people of this great United States of America.

I cannot quantify it—I do not think anyone else can—but clearly that conflict is part of the root cause of hatred against us, hatred which is causing us to create a brand new Department of Government, Homeland Defense, an entirely new military command, to take all types of precautions in our daily life—whether it is at the airports or people just coming to visit here in the Congress of the United States—with security measures.

This conflict between the Israelis and the Palestinians often is presented and distorted in a very biased manner to the citizens throughout that region by the media in the Arab nations. We must confront that. We must take actions which are clear to show that we want to bring about peace in that region.

We have to address the disaffection and dissatisfaction felt by the people of that region. Each act of violence by either side in this unending conflict erodes hope for the peaceful future for Israel—it is in this article—and for the peaceful future of the people in Palestine.

In fact, each act of senseless violence in the Middle East further erodes hope that someday we can be more secure here at home.

All reasonable options to bring about an end to this violence and indiscriminate loss of life must be considered. We can never, ever abandon hope. We must act together to renew hope in this land of the Middle East, the land of faith, the land from which so much history has emanated for the rest of the world.

One option I believe must be considered—and I said this many times here on the floor—is the use of NATO peacekeepers. But that can only be achieved if certain criteria are met.

First, I call upon the administration to explore, with the other member nations of NATO: Are they willing to take on this task, a task with unknown risks? Clearly there are risks, but the quantum of risk is unknown. Are they willing to take it on if these conditions are met—first, the people of Palestine and the people of Israel, ask them to take on this obligation to maintain conditions of stability. That is the first.

Second, if both the Palestinian people and the people of Israel, through their respected, elected leaders, will pledge to cooperate in every way with those NATO forces.

Now, Mr. President, there is a perception in the world that the Europeans are more sympathetic to the Palestinian causes, and that we here in the United States are more sympathetic to the Israeli causes. But NATO bonds us together, as we have been for these 50 years, in one constituted force.

And we would then go, as a constituted military organization, for the stated purpose, only, of trying to bring about stability, so that the diplomatic discussions, not only between the leaders of the Palestinian people and the leaders of the Israeli people can commence, but other leaders in the world, who desire, can step up.

There are those who have looked at this problem, and I respect them, and they disagree. I ask unanimous consent an article by a noted author, Mr. Kagan, be printed in the RECORD following my remarks.

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

(See exhibit 2.)

EXHIBIT 1

[From the Washington Post, July 24, 2002]

U.S. DECRIES ISRAELI MISSILE STRIKE, PONDERS EFFECT ON PEACE BID

(By Karen DeYoung)

The White House yesterday denounced Israel's missile strike in a densely populated area in the Gaza Strip as ''heavy-handed'' and described it as ''a deliberate attack against a building in which civilians were known to be located.''

Rejecting Israel's contention that it did not intend to kill innocents with a strike that was directed against a leader of the Hamas militant group, spokesman Ari Fleischer said. ''These were apartment buildings that were targeted.'' In addition to Salah Shehada, the intended target, the missile fired from an Israeli F–16 warplane killed 14 other people, most of them under the age of 11, and injured about 150.

Although President Bush continues ''to be a lead defender of Israel around the world and will speak out about Israel's right to self-defense,'' Fleischer said, ''this is an instance in which the United States and Israel do not see eye to eye.''

The Monday night attack was widely condemned in Europe and the Arab world. Many, particularly in Arab capitals, said it demonstrated that the government of Israeli Prime Minister Ariel Sharon was trying to undercut recent progress in the Middle East peace process.

The attack appeared initially to have stunned U.S. officials involved in peace efforts. They said they had no warning of Israel's plans despite talks here Monday between high-level representatives of the two governments. By yesterday, shock had turned to depression and uncertainty over where the process would go.

''There is considerable agreement that this represents something really problematic, something unique,'' one administration official said.

U.S. reaction to the attack, which occurred around 7 p.m. Washington time, was delayed until there was a clear picture of what had happened, the official said. After a flurry of telephone calls to the region, ''within an hour, we knew what we were dealing with. Then discussions began on how to respond.''

Talks Monday night among Secretary of State Colin L. Powell; his deputy, Richard L. Armitage; and William Burns, the assistant secretary for the region, were quickly joined by national security adviser Condoleezza Rice and her deputy, Stephen Hadley. While acknowledging deep and longstanding differences between the State Department and the White House over Middle East policy, the official said, ''this particular time, there was agreement across the board.''

Under the rhetorical code that has long surrounded statements on the Middle East, the United States normally ''condemns'' Palestinian terrorist attacks and uses the somewhat softer verb, ''deplore,'' to criticize Israeli actions.

Officials considered, then rejected, condemning the Israelis or describing their actions as ''counterproductive'' before settling on ''heavy-handed,'' as something they believed ''captured the deploring,'' as one official put it.

It was decided that Daniel C. Kurtzer, the U.S. ambassador to Israel, would deliver the message to Sharon. U.S. officials here described that discussion yesterday as unpleasant, and said Sharon said little in private that differed from his description of the attack as ''one of our major successes.''

White House public comment was left to Fleischer, and Bush made no statement yesterday on the attack. ''The president views this as a heavy-handed action that is not consistent with dedication to peace in the Middle East,'' Fleischer said.

Asked why Israel's action in Gaza was different from U.S. attacks against al Qaeda fighters in Afghanistan that resulted in the loss of innocent civilian lives—a comparison Israel has made—Fleischer replied: ''It isn't accurate to compare the two. . . . There are going to be losses of innocents in times of war, and I think that's recognized around the world.

''What's important is, in pursuit of the military objectives, as the United States does in Afghanistan, to always exercise every restraint to minimize those losses of life,'' Fleischer said. ''But in this case, what happened in Gaza was a knowing attack against a building in which innocents were found.''

European Union foreign policy chief Javier Solana called the attack an ''extra-judicial killing operation'' that ''comes at a time when both Israelis and Palestinians were working very seriously to curb violence and restore cooperative security arrangements.''

Solana represents the EU in the ''quartet'' group on the Middle East that also includes Powell, U.N. Secretary General Kofi Annan and Russian Foreign Minister Igor Ivanov.

Annan issued a statement late Monday deploring the attack, saying, ''Israel has the legal and moral responsibility to take all measures to avoid the loss of innocent life; it clearly failed to do so.''

There was no direct contact yesterday between Powell and the other quartet members, and no one seemed to have a clear idea how to proceed beyond waiting for the immediate fallout—including widely expected Palestinian retaliation—and its unpredictable impact on the wider peace process.

After months in which the process has been frozen, and despite Palestinian terrorist attacks against Israeli civilians as recently as last week, significant recent progress had been reported.

Plans to restructure the Palestinian Authority's security and financial infrastructure and prepare for elections in January were near completion. Israeli Foreign Minister Shimon Peres met with senior Palestinian officials last weekend for the first time in months, amid signs that Israeli troops would begin to withdraw from occupied Palestinian cities.

Egypt, Saudi Arabia and Jordan, the Arab countries most active in the peace process, all condemned the Israeli action. Egyptian Foreign Minister Ahmed Maher called it a ''war crime,'' and his Saudi counterpart, Saud Faisal, said it was ''a repulsive act that will be registered against [Sharon] in history.''

EXHIBIT 2

[From the Washington Post, Apr. 18, 2002]

CAN NATO PATROL PALESTINE?

(By Robert Kagan)

When Pulitzer-Prize winning New York Times columnist Tom Friedman talks, people listen. Now one of Friedman's most radical ideas—to put a NATO peacekeeping force on the ground between the Israelis and Palestinians as a key part of an overall peace settlement—is actually starting to pick up steam around the world. U.N. Secretary General Kofi Annan has endorsed the idea of an international force as part of a settlement that would be imposed on Israel and the Palestinians. So has German Foreign Minister Joschka Fischer. More important, Secretary of State Colin Powell is believed to be mulling such a plan. He has publicly talked about putting American observers on the ground. Even some Israelis have warmed to the idea, provided of course that any force includes American troops. After Europe's lynching of Israel these past few weeks, that's the only army they trust.

Friedman's idea deserves to be taken seriously. And to those of us who have supported American troop deployments for peacekeeping in Bosnia, Kosovo, Haiti and elsewhere over the past decade, peacekeeping in the Middle East seems at least as worthy, in principal. Our strategic interest in a stable peace there is clear, and so is the moral case for doing something to end the bloodshed, defend the Israeli democracy and given the Palestinians a chance for a better life. After Sept. 11, we have to engage in peacekeeping and nation-building in messy places such as Afghanistan and, one hopes, post-Saddam Iraq, whether we like it or not. So why not in the Palestinian territories.

But if the idea of a U.S.-led force between Israel and a Palestinian state is starting to get serious attention, it's time for Friedman and others to spell out what exactly they have in mind, and with a little more candor about the costs and risks.

Take the size and role of the force, for instance. To carry out its mission and avoid disaster, the American force would have to be, as they say in the military, ''robust.'' For one thing, the demarcation line between Israelis and Palestinians that will have to be patrolled and controlled will be long, twisty, and difficult. For another thing, Americans are going to be the prime target for terrorist attacks. Friedman denies this, arguing that the Palestinian people will view the Americans as saviors—they will be ''the midwife of a Palestinian state.'' But Hamas, Hezbollah and Islamic Jihad probably won't see it that way. Rallying to the cry of ''Remember Beirut!'' they'll look for ways to take out another 240 Marines. And they'll have help from Iran, Iraq, al Qaeda and all other jihadists out there.

That means any American force will have to be big—10,000 to 20,000 troops, with another 10,000 to 20,000 backing them up. And they'll have to be heavily armed. Potential attackers will need to be intimidated by American firepower every day and every night for as many years as it takes. And that means Tom Friedman and Kofi Annan and Joschka Fischer will need to become full-time lobbyists for massive increases in the American defense budget, because right now we have neither the troops nor the money to carry out their plan.

Now for the hard part. Let's say we get a peace agreement and we put the peacekeeping force on the ground between the Israelis and Palestinians. What happens when, despite all our best efforts, the occasional Hamas suicide bomber gets through anyway and commits the occasional massacre in Jerusalem or Tel Aviv? Count on it: This will happen. And what about when Hezbollah tries to use the new Palestinian state created by the peace settlement the way it now uses southern Lebanon, as a convenient place from which to launch Katyusha rockets at Israeli population centers? What do we do then?

Friedman et al. can't wish this problem away. And the options are less than enticing. One option is that the American-led peacekeeping force does nothing. But then we will have effectively created an American shield for terrorist attacks against Israel. This, by the way, was exactly the role a U.N. peacekeeping force played in Lebanon for several years in the late 1970s and early '80s, right up until the Israeli army invaded Lebanon and pushed the U.N. force (known as UNIFIL) aside.

Option two is that the peacekeeping force could, like UNIFIL, just get out of the way and let the Israeli military retaliate for any terrorist attacks. Then at least American forces wouldn't be helping the terrorist attack Israel. They'd be helping Israel attack the state of Palestine. That's how it would look to the Palestinians, anyway. So much for the Americans as saviors.

Option three is that the American-led force goes to war. We tell the Israelis to hold their fire and then send our own forces in to stop the terrorists. In essence, we take on the job the Israelis are currently doing in the territories. This prevents the outbreak of a new Israeli-Palestinian conflict—and begins the first round of the U.S.-Palestinian conflict. Maybe that's kind of progress, but it's not very attractive.

Is there another option I'm missing? If not, the proposal for an international peacekeeping force looks less like a real plan than a desperate if noble attempt to solve the insoluble in the Middle East—a deus ex America summoned to provide a miracle when all roads to peace have reached a dead end. Even Ehud Barak's idea of building a very, very big fence between Israel and the Palestinians looks better. Help us out, Tom.

Mr. WARNER. Mr. President, I yield to our leaders. They have an important matter.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT AGREEMENT—H.R. 5121 AND H.R. 5010

Mr. DASCHLE. Mr. President, let me compliment the distinguished Senator from Virginia on his remarks. I appreciate very much his willingness to yield the floor for this unanimous consent request.

I have been consulting with the distinguished Republican leader for the last several hours with regard to additional work on appropriations bills. We are now in a position to offer a unanimous consent request with regard to at least two more of these bills.

I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed to the consideration of Calendar No. 504, H.R. 5121, the legislative branch appropriations bill; that debate on the bill and the committee amendment be limited to 30 minutes equally divided and controlled between the chair and ranking member of the subcommittee; that immediately after the bill is reported, the text of the Senate committee-reported bill be inserted at the appropriate place in the bill; that the only first-degree amendments in order be those enumerated in this agreement, with the debate time limited to 10 minutes each, equally divided and controlled in the usual form; except that the Dodd and Specter amendments listed below not have a time limitation; that they be subject to relevant second-degree amendments that would also not be subject to a time limit; that upon disposition of these amendments, the bill be read a third time and the Senate then vote on passage of the bill, as amended; that upon passage, the Senate insist on its amendment and request a conference with the House; that the Chair be authorized to appoint conferees on the part of the Senate, without further intervening action or debate; provided further that the Senate proceed to the consideration of Calendar No. 505, H.R. 5010, the Department of Defense appropriations bill, no later than Wednesday, July 31—Durbin amendment regarding Capitol Police; Cochran amendment regarding congressional awards; Landrieu amendment regarding bicentennial commission; Specter amendment regarding mass mailings; Dodd amendment regarding mobile offices.

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

The Republican leader.

Mr. LOTT. Mr. President, with the unanimous consent agreement, I do want to get one clarification as to my understanding with Senator DASCHLE. First, I appreciate the work that has been done on this matter. I think it will help us move the legislative process forward, get some appropriations bills done, get the legislative appropriations done, but not too far down this pike without doing the Department of Defense appropriations bill. This is a way to get both of them done and hopefully maybe even some other action before we leave. I want to make sure we understand that the intent is to complete the Department of Defense appropriations bill prior to the recess; is that correct?

Mr. DASCHLE. Mr. President, that is correct. I would also note something the Senator mentioned: It is important for us not to consider this the complete list. It would be my hope, if we could entertain other unanimous consent requests regarding additional appropriations bills—we expect that that possibility could also be one we would want to entertain. My expectation and determination would be to complete work on the DOD appropriations bill next week.

Mr. LOTT. I yield the floor.

Mr. DASCHLE. I yield the floor and thank my colleagues.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR NO SECOND-DEGREE AMENDMENTS—H.R. 5121

Mr. REID. Mr. President, I want to clarify that with respect to the agreement on the legislative branch appropriations bill, there are no second-degree amendments in order to the Durbin, Cochran, or Landrieu amendments. I ask unanimous consent that be the order.

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

CONFERRING HONORARY CITIZENSHIP OF THE UNITED STATES ON THE MARQUIS DE LAFAYETTE

Mr. WARNER. Mr. President, with the consent of the leadership on both sides, I ask that the Chair lay before the Senate a message from the House on the joint resolution, S.J. Res. 13, conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

S.J. RES. 13

Resolved, That the joint resolution from the Senate (S.J. Res. 13) entitled ''Joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette'', do pass with the following amendments:

Strike out all after the resolving clause and insert:

That Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette, is proclaimed posthumously to be an honorary citizen of the United States of America.

Strike out the preamble and insert:

Whereas the United States has conferred honorary citizenship on four other occasions in more than 200 years of its independence, and honorary citizenship is and should remain an extraordinary honor not lightly conferred nor frequently granted;

Whereas Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette or General Lafayette, voluntarily put forth his own money and risked his life for the freedom of Americans;

Whereas the Marquis de Lafayette, by an Act of Congress, was voted to the rank of Major General;

Whereas, during the Revolutionary War, General Lafayette was wounded at the Battle of Brandywine, demonstrating bravery that forever endeared him to the American soldiers;

Whereas the Marquis de Lafayette secured the help of France to aid the United States' colonists against Great Britain;

Whereas the Marquis de Lafayette was conferred the honor of honorary citizenship by the Commonwealth of Virginia and the State of Maryland;

Whereas the Marquis de Lafayette was the first foreign dignitary to address Congress, an honor which was accorded to him upon his return to the United States in 1824;

Whereas, upon his death, both the House of Representatives and the Senate draped their chambers in black as a demonstration of respect and gratitude for his contribution to the independence of the United States;

Whereas an American flag has flown over his grave in France since his death and has not been removed, even while France was occupied by Nazi Germany during World War II; and

Whereas the Marquis de Lafayette gave aid to the United States in her time of need and is forever a symbol of freedom: Now, therefore, be it

Amend the title so as to read ''Joint Resolution conferring honorary citizenship of the United States posthumously on Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette.''.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate concur in the House amendment to the joint resolution, that the Senate concur in the amendment to the preamble, that the Senate concur in the House amendment to the title, and that the motion to reconsider be laid upon the table en bloc.

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

Mr. WARNER. Mr. President, this is a matter on which I and a number of others have worked for some time. I thank my distinguished colleague from Virginia, Congressman VIRGIL GOODE, whom I asked to introduce this measure in the House. He did so with great skill. It was passed by the House. It had previously been adopted by the Senate, but now the House bill has been adopted by the Senate. Hopefully it will be forthcoming to the President for signature.

I rise in support of this resolution which has been an idea I have had for many years.

It bestows honorary citizenship on the Marquis de Lafayette. I think it is an honor long overdue. This great Frenchman fought with Washington, as I shall enumerate, in a battle for our independence. He was very influential in having the French Government intervene, as they did decisively, at

Yorktown to enable that long, drawn-out conflict to be brought to an end. He later came back to Virginia and traveled throughout my State and other parts of this great Nation and is remembered with great fondness.

In his greatest time of need when the Austrians imprisoned him for his supposed involvement in the fall of the French monarchy, the United States did not acknowledge Lafayette as a U.S. citizen despite his cries for help all across our land.

This young man risked so much to help build the America we know today, and we are now correcting this long-delayed injustice to Lafayette and celebrating him not only as a patriot of freedom and liberty but as a U.S. citizen.

At the young age of 19, Lafayette disobeyed the wishes of King Louis XVI of France, risking his own personal wealth and status to aid in our quest for freedom from Great Britain. He proved his dedication to our liberty when he was wounded in the battle of Brandywine, forever endearing himself to the American soldiers.

Throughout the American Revolution, Lafayette acted as a liaison between France and the American colonies. He urged influential policymakers to have France make the decisive military, naval, and financial commitment to save the American colonists. His tireless efforts, both as a liaison and as a general, aided America in her ultimate victory.

During the war, Lafayette proved himself over and over as a soldier and a good friend to George Washington. George Washington was impressed with Lafayette's military tactics which lured British General Cornwallis and his army to Yorktown, VA. The American Army, led by General Washington, along with French forces led by General Rochambeau, came south and trapped Cornwallis and his troops at Yorktown. As a result, the British were forced to surrender. The famous French fleet appeared on the horizon and they prevented any resupply to the British forces from their ships offshore. It was a decisive part of that battle. Here we are today enjoying freedom 200-plus years later because of Lafayette and the French contribution.

Lafayette's services to America extended beyond the battlefield. He worked diligently as an adviser, helping to win concessions from Britain during the treaty negotiations. At Versailles, when negotiating with the French Government, our representatives, Franklin and Jefferson, found him invaluable. Moreover, his impartial friendship was extended to the first seven U.S. Presidents.

One of Lafayette's major contributions was bridging these cultural gaps between America and France. His early influence on America still holds true today as we try to bridge the cultural gaps to many countries across the globe to help cultivate freedom. With this in mind, now more than ever, it is important to remember who our friends are in the world as we try to create a coalition against terror.

The Marquis de Lafayette is celebrated by many as a symbol of freedom and liberty. I am happy and honored for the opportunity to offer this resolution for citizenship before the Senate.

Congress has before shown its respect and gratitude for Lafayette when both the Senate and the House of Representatives draped their Chambers in black for his contribution to the independence of this great Nation.

Now, I would like to say to the Marquis de Lafayette as John J. Pershing did in World War I when he stood before the patriot's grave and said: ''Lafayette, we are here.''

Our Nation has only bestowed this honor on a few persons. I shall place into the RECORD the names of those, such as Winston Churchill and others. So here now, at long last, we honor this great patriot.

First, I thank Senator LEAHY, chairman of the Judiciary Committee. I also thank, from my staff, John Frierson; former staff member, Don Lefeve; and Congressman VIRGIL GOODE from Virginia and his assistant, Rawley Vaughn, for their help. The French Ambassador to the United States has been of great help and encouragement, as has Mr. Jim Johnston of the Virginia Film Foundation, Wyatt Dickerson, and Dr. James Scalon, a history professor at Randolph-Macon University.

It is interesting how many people have joined to make this possible. I now enumerate those who have received honorary citizenship by our Government: British Prime Minister Winston Churchill, on April 9, 1963; Swedish diplomat Raoul Wallenberg, October 5, 1981; William Penn and his wife Hannah, October 4, 1984; Mother Teresa, November 16, 1996.

It is very interesting. I am deeply humbled to have been one of several to make this possible.

Again, I say that the distinguished chairman of the Judiciary Committee, Mr. LEAHY, was of invaluable help to make this legislation possible. I spoke with him earlier today. He helped me facilitate the adoption of this matter this evening.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 812, there be 1 hour of debate relating to the motion to waive the Budget Act, equally divided between Senators ROCKEFELLER and GRAMM of Texas or their designees prior to the vote on the motion.

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators allowed to speak therein for not to exceed 10 minutes each.

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

ISRAEL AND PALESTINE

Mr. WELLSTONE. Mr. President, normally I try not to use written text on the floor of the Senate, but I want to make sure that I say what I say in the Senate in a careful and hopefully the right way.

Tuesday's missile strike against the home of Sheik Salah Shehaded was an unsettling departure from the more careful methods Israel has typically used against its terrorist enemies. The sheik, who was killed in the operation, was the Gaza terrorism chief of Hamas, a group that has slaughtered hundreds of innocent Israelis and who seeks the destruction of Israel. Unfortunately, the attack killed not only the sheik but also 14 of his family members and neighbors, including nine children—terrible, terrible, toll.

It is true that these deaths were not the purpose of the operation. Unlike suicide bombers, the Israeli military does not target civilians. And perhaps, given the sheik's role in killing civilians, maybe you could argue that more innocent lives were saved than would ultimately have been lost if he had continued to live.

But military planners should have known that this operation, taking place in a densely populated residential complex, might result in the death of many civilians. Surely other military options could have been considered.

The rising toll on innocent civilians in this conflict is heartbreaking. There must be a greater effort by all—the Government of Israel, the Palestinians, the Arab States, and the United States—to break this cycle of revenge and spiraling violence.

Four weeks ago Monday, President Bush outlined his latest ideas for resolving the Israeli-Palestinian conflict. He laid out a vision of the future for the Middle East, declaring that he wanted to see two democratic states living side by side with secure borders, and he believed this goal could be achieved within 3 years. He called for movement on three tracks. First, aggressive action to end terrorist attacks on innocent Israeli citizens; second, reform of Palestinian legal and security structures; and third, substantial assistance to relieve the suffering of ordinary Palestinians who now are on the brink of humanitarian disaster.

The Bush speech, with its important elements, now needs to be recast into a concrete work plan where there is movement on all three tracks. Behind the scenes, Secretary Powell and members of the Quartet have been seeking to flesh out plans for overhauling the Palestinian Authority, yet movement there has been slow. The bottom line is that the political roadmap that was missing from the President's speech

has yet to appear. The United States must lead a diplomatic process to end the endless cycle of violence and get to the end game—an independent Palestinian state and security for Israel. There must be action on all fronts, or what little hope is left will vanish.

I wish I had a clear answer, but thought as a Senator from Minnesota I should at least speak out in the Senate. I am absolutely convinced that there is no hope in the present course, that we have to figure out how to get from where we are back on a political track. As tiring and tiresome as it might sound to some, we have to continue to call for political negotiation. What is the alternative? There is no alternative. There is no alternative.

COMMENDING NATIONAL PUBLIC RADIO AND BOISE STATE RADIO

Mr. CRAPO. Mr. President, with great pride, I commend National Public Radio and its Idaho affiliate, Boise State Radio, for their creative application of wind power technology.

With unprecedented innovation, in what is believed to be the first public radio transmitter site to rely on the power of wind, Boise State Radio and National Public Radio have erected three state-of-the-art wind turbines in order to provide broadcast service to previously unreachable areas in southern Idaho and northeastern Nevada.

In an age when just 3 percent of electricity in today's national mix comes from renewable sources, Boise State Radio and National Public Radio have committed to expanding their services while advancing the use of clean, efficient power sources.

The American Wind Energy Association estimates that Idaho has the potential to generate over 8,000 megawatts of wind power, placing our State in a unique position to contribute significantly to domestic energy production.

At the same time, it is clear that the overall economy is changing and that rural America is shouldering a great deal of this weight. The fact is, many of the jobs that have been lost over the last decade might never return. While continuing to support our traditional industries, we must also be creative in capitalizing on new opportunities for rural communities.

By expanding communications and providing a new facet to the rural economic infrastructure, the generation of wind power serves not only to maintain our Nation's available resources, but also to advance economic opportunity in rural America.

Recognizing Idaho's wind power potential and its benefits to our economies, National Public Radio and Boise State Radio are emerging as leaders in the advancement of environmentally efficient energy technology. This further serves as evidence that opportunities exist right at home to increase energy production that would boost our electricity supply and reduce dependence on foreign fuels, such as oil, which we import primarily from the Middle East.

We need to make the best use of our domestic renewable energy resources to ensure a secure, reliable, and clean energy supply while improving the economies of rural Idaho and rural America.

National Public Radio and Boise State Radio: On behalf of Idahoans and millions of Americans, I salute you.

STOCK OPTIONS

Mr. WYDEN. Mr. President, I rise to outline briefly an approach with respect to the stock option issue that I am hopeful could bring together Senators of varying philosophies in both political parties.

It seems as if every morning Americans wake up to yet another headline about the collapse of a major U.S. corporation. These failures have devastated the savings of millions of hard-working Americans, savings they were depending on for their retirement or to pay for their kids' college. When the smoke clears and the fallout settles, the issue of stock options invariably comes to the fore.

I serve as chair of the Science and Technology Subcommittee, and I have spent a considerable amount of time analyzing the stock option issue. There is no question in my mind that some companies have abused stock options, using them as a vehicle for funneling large amounts of wealth to top executives. What is more, options have been granted in ways that fail to serve their intended purpose of aligning the interests of management with the long-term interests of the company.

Instead, a number of these massive option grants have created perverse incentives, enabling top executives to get extraordinarily rich by pumping up a company's short-term share price. The tactics they use can jeopardize the company's long-term financial health, but by the time the long-term impact is felt, the executives invariably have cashed out and left the firm. When an executive develops a big personal stake in options, it can lead to a big conflict of interest. Too often the company's long-term interests take a backseat to that executive's desire for personal reasons to boost the short-term share price.

When the betting is between massaging the numbers to ''manage'' quarterly profit projections and improving the quality of the business through such initiatives as long-term research and development investments, short-term profits and the value of executive stock options can be the odds-on favorite.

The abuse of stock options in the executive suite should not be taken as an indictment of all stock options that are offered.

I remain convinced that stock option plans, as long as they are broad based and have significant shareholder investment protection, can play a very important role in our economy. They can enable corporations to attract and retain good workers and top talent. They can motivate and increase productivity by giving employees a strong personal interest in the long-term success of the corporation.

The program I would like to outline this afternoon is based on the premise that it is time for the Senate to act to stop abuses at the top, while not gutting options that are so vital to rank and file workers. This can best be done by restoring the link between the long-term interests of the company and those of senior management and giving shareholders knowledge about control over the stock options of corporate leaders.

So I hope we will be looking to discuss with Senators of both parties the differing philosophies on the stock option issue, and that we can come together as a Senate around reform based on three issues.

First, the rule should increase shareholder influence and oversight with respect to grants of stock options to corporate officers and directors by requiring shareholder approval. This would help prevent the all-too-common ''I'll scratch your back if you scratch mine'' culture of clubby directors and top executives voting each other huge option packages with little or no shareholder input.

Second, new rules should seek to ensure that stock options provide incentives for corporate officers and directors who act in the best long-term interests of their corporation, not incentives to stimulate short-term runups in stock prices. I believe the way to do this is to establish substantial vesting periods for options and holding periods for stock shares so that top executives do not have the ability to quickly cash out and jump ship.

Specifically, I believe there needs to be a multitiered holding period. Directors and officers should be allowed to sell a modest proportion of shares, for example, to permit a degree of diversification; but for the large majority, they should have to wait a substantial period of time and they should be required to hold on to a portion of their stock until at least 6 months after leaving the company.

Finally, a third requirement in the proposal I outline today would be new rules improving the transparency of stock option grants to directors and officers. It is critical that better and more frequent information be provided to shareholders and investors. They deserve more information than what is buried in the typical footnote. Stock option information ought to be reported quarterly, not just annually, and broken out into an easy-to-find section in each company's public SEC filings.

In concluding, there have been two paths presented in the Senate in recent months with respect to the issue of stock options. Some now think the

problem is so severe that options should be pared back across the board and that Congress should take that action. Others say that business as usual should continue, that this is a problem that has affected just a handful of companies.

The principles I have described today lay out a third path—a path that will ensure that broad-based stock options can continue to be a useful tool for deserving workers, shareholders, and the economy as a whole, while at the same time curbing abuses by those in the executive suites whose conduct is over the line.

On the Science and Technology Subcommittee, which I chair, we have heard again and again how important these stock options are. There is no question that is correct. But I think it is also correct to say that the job of cleaning up corporate corruption is not going to be complete until Congress acts to curb the abuse of stock options.

I look forward to working with my colleagues to put in place tough, new rules that will ensure that stock options remain broad based, but also address this issue of abuse that, unfortunately, has drawn options and their value into question.

AN UNWARRANTED BLOW TO GLOBAL FAMILY PLANNING

Mrs. FEINSTEIN. Mr. President, I rise today to express my very deep regret that the Bush administration has decided not to release the $34 million allocated for the United Nations Fund for Population Activities, UNFPA. I would ask the White House to reconsider its decision.

At stake here is vital assistance for needy individuals throughout the developing world, living under the threat of HIV infection and deteriorating health conditions.

Indeed, it is a shame that such assistance—assistance that can save lives—is being held hostage by domestic politics, and the misconceptions of the anti-choice wing of the Republican Party.

I would remind the administration that the $34 million was appropriated by Congress in a spirit of bipartisan consensus, after 2 months of negotiations. During these talks there was never any question whether or not to allocate the funds, but simply how much.

The White House's own budget proposal for fiscal year 2002 included $25 million for the fund, $3.5 million more than allocated by the Clinton administration.

Within this context, the administration's decision is all the more perplexing. It stands as painful proof that the debate over U.S. support for international family planning has been distorted all out proportion.

In particular, there remains a belief, in some quarters, that the United Nations Fund for Population Activities either condones or even assists in abortion and coercive sterilization.

This is, at best, nothing but hearsay. And if such proof does exist, why haven't we seen or heard anything substantive about it?

With respect to China, in May the State Department sent a mission to investigate such allegations, and it found no evidence at all of that the fund was involved, in any way, in abortion or coercive sterilization. A month before, a British delegation drew a similar conclusion.

For the record, I would like to quote directly from the State Department's conclusions. ''We find no evidence that UNFPA has knowingly supported or participated in the management of a program of coercive abortion or involuntary sterilization in [China].''

In light of this finding, the report recommends, and I quote, ''that not more than $34 million which has already been appropriated be released to UNFPA.''

I would also argue that it is precisely because of the questions raised about China's policies, that United Nations presence there becomes that much more important. The United Nations Fund for Population Activities remains the best way to do this.

Only last year, Secretary of State Colin Powell praised the United Nations Fund for Population Activities, saying that it was engaged in ''critical population and assistance to developing countries.''

This explains why the Department of State provided $600,000 to the fund for sanity supplies, clean undergarments, and emergency infant delivery kits for Afghan refugees in Iran, Pakistan, Uzbekistan, and Tajikistan.

The facts speak for themselves. The United Nations Fund for Population Activities does not subsidize abortion services in any country. Its executive director, Madame Thoraya Ahmed Obaid, has said that the fund would cease its family planning program in China, if any allegations of coercive abortion or involuntary sterilization could be verified.

I would also argue that we would be wise to focus on the wider role that the United Nations Fund for Population Activities plays, most notably in the critical area of HIV prevention. And I would remind my colleagues of just a few of the troubling facts revealed at the recent AIDS conference in Barcelona.

In Botswana, for example—a country where 38 percent of the adult population is infected with HIV—20 percent of high-school-age students believe that you can tell whether a person has HIV/AIDS simply by looking at them.

In Malawi, where 15 percent of all adults are HIV positive, 64 percent of young men admit to not using a condom with their most recent sexual partner. The scourge of AIDS throughout sub-Saharan Africa is a human tragedy of terrifying proportions.

How can we turn our backs on those not yet infected, especially when the reason for doing so is based on unfounded allegations and a misunderstanding of the term ''family planning.''

There are no hidden meanings; there is no secret agenda. Family planning does not condone or promote abortion. Simply put, family planning means: women able to control their reproductive destinies; couples given the information necessary to make their own choices about family size and the timing of births; health care officials reaching out to adolescents and young adults, as a means to educate them, and in turn prevent HIV infection and unwanted pregnancies.

Healthy families—the heart of any healthy society—depend upon women being able to make informed choices. The United Nations Fund for Population Activities helps women do just that—make a choice—which I hold to be a fundamental right of women everywhere, regardless of their economic circumstances.

Women here in the United States take such information for granted, and we can not forget that this is all too often unavailable to poor women in the developing world.

How to protect themselves from HIV or other sexually transmitted diseases, how to space pregnancies so that they can better manage the size of their families, and how to lower the risks of childbirth and increase their chances of delivering healthy babies—this is at the heart of the information the United Nations Fund for Population Activities provides. This strikes me as hardly immoral or illegal.

In closing, Mr. President, let me remind my colleagues that the world's population today stands at more than six billion—a figure that shows no signs of stabilizing. In fact, the United Nations estimates this number could double, to 12 billion, by the year 2050.

The brunt of this growth will impact precisely those areas least able to absorb it—namely, the developing world. Overpopulation has already caused significant problems, like malnutrition, disease, environmental degradation, and political instability.

If we in the United States bury our heads in the sand here, it will become increasing likely that overpopulation could overwhelm such fragile societies.

Given such alarming facts, the purpose of the United Nations Fund for Population Activities—to reduce poverty, improve health and raise living standards around the world—will become only more important in the years to come. The United States, in my mind, has two options: one, either we help support international family planning efforts, in a way that is both responsible and accountable; or two, we relinquish our leadership role, and turn our backs on the developing world.

The Bush Administration seems to have taken the latter course, and I can only hope that it reconsiders its decision and will do what is right.

It should release the $34 million allocated to the United Nations Fund for

Population Activities. Failure to do so would set an unfortunate precedent.

TRIBUTE TO SERGEANT JOHN H. MORENO AND ALL FALLEN HEROES

Mr. KERRY. Mr. President, last month I attended the dedication of the Massachusetts Vietnam War Memorial in Worcester, MA where I joined my fellow veterans and their families to memorialize the 1,537 heroes from Massachusetts who gave their lives in Vietnam.

During the ceremony, I was passed a copy of a poem Mrs. Eileen Moreno wrote in honor of her son, Sergeant John H. Moreno, whose name graces the Place of Names in Worcester. John Moreno, who grew up in Brookline, loved baseball and the Red Sox, and planned to attend art school so that he could teach art at an elementary school, was like so many brave young men and women who gave so much to their families, communities, and country.

With her compelling tribute to her son, Mrs. Moreno reminds us all of the high price of freedom, a price paid both by the soldiers who went thousands of miles away to protect our Nation and the families who remember their loved ones. I thank her for passing along these words of tribute and respectfully ask unanimous consent to print her poem, ''Memorium—Elegy for a Son,'' in the RECORD so that others may read her beautiful words.

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

MEMORIUM—ELEGY FOR A SON

Yes, we still grieve.
In the stillness of the night
Echos the silent primal howl
of rage and refusal to believe.

In private moments of the day to day
We weep our quiet tears;
Sorrow does not lessen with the
passage of the years.

Oh, yes we weep and hide our
desolation with words like duty,
gallantry and pride.

Still we cry.

For the bright, sweet child who was,
We cry.

For the valiant man he became,
We cry.

We grieve.
With dry and sighting eyes

We weep tears that can't relieve.
For his loneliness, his fear, his pain
Knowing our aching, empty arms
Cannot hold him close again,
We cry.

But for the solace that it gives,
In the love he left for us in our care
And in his memory we'll forever share
Still he lives—Eternity is his legacy.

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 July 16, 2001 in Newmarket, NH. Thung Phetakoune, 62, a man of Laotian descent, died of injuries he suffered in an attack apparently motivated by racial hatred. According to authorities, Richard Labbe, 35, assaulted the victim amid an anti-Asian tirade. Phetakoune died from injuries stemming from a fractured skull, subsurface bleeding, and swelling of the brain.

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.

EFFECTS OF CLIMATE CHANGE IN ALASKA

Mr. STEVENS. Mr. President, a recent article from the New York Times describes the infestation of spruce bark beetles on the Kenai Peninsula in Alaska. This is another aspect of global climate change that has deadly implications in my state. On the Kenai Peninsula, the spruce bark beetle has infested nearly 95 percent of the spruce trees, which represents about four million acres of dead or dying forest. Some scientists believe that a succession of warm years in Alaska has allowed spruce bark beetles to reproduce at twice their normal rate. This warming trend in Alaska has coincided with a huge outbreak of these beetles and the death of a forest nearly twice the size of Yellowstone National Park. This terrible situation, in one of my state's most beautiful tourist destinations, has created a dangerous environment for a large scale fire in this region.

Over half of the people of Alaska live in the path of this fire.

The Forest Service, under the previous Administration, in my State would not permit the selective cutting of infested trees, which would have mitigated, if not stopped, the outbreak of the deadly beetle. When timber sales were offered in this area extreme environmental lawsuits stopped any removal of the ever growing fuel load. My state is now in a very dangerous situation—eight years of beetle kill stands in the forests on the Kenai Peninsula and the insect continues to spread.

This article demonstrates that. I call it to the attention of the Senate because of the emphasis placed on fires already started in the West and that are ongoing.

This is the most deadly situation I have ever encountered in terms of potential fire and the hazard in this enormous area—4 million acres of dead or dying trees caused by this beetle. I think it ought to be dealt with by all concerned. I hope we have some money in the regular bill for this matter.

I ask unanimous consent that the article be printed in the RECORD. I call it to the attention of the Senate.

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

[From the Science Times, June 25, 2002]

ON HOT TRAIL OF TINY KILLER IN ALASKA

(By Timothy Egan)

SOLDOTNA, Alaska—Edward Berg has a pair of doctorates, one in philosophy and another in botany, but for the last decade he has been a forensic detective in the forest, trying to solve a large murder mystery.

The evidence surrounds him on his home in the Kenai Peninsula: nearly four million acres of white spruce trees, dead or dying from an infestation of beetles—the largest kill by insects of any forest in North America, federal officials say.

Beetles have been gnawing at spruce trees for thousands of years. Why, Dr. Berg wondered, has this infestation been so great? After matching climate records to the rate of dying trees, Dr. Berg, who works at the Kenai National Widlife Refuge, believes he has come up with an answer.

He says a succession of warm years in Alaska has allowed spruce bark beetles to reproduce at twice their normal rate. Hungry for the sweet lining beneath the bark, the beetles have swarmed over the stands of spruce, overwhelming the trees' normal defense mechanisms.

If Dr. Berg is correct—and he has won many converts as well as some skeptics—then the dead spruce forest of Alaska may well be one of the world's most visible monuments to climate change. On the Kenai, nearly 95 percent of spruce trees have fallen to the beetle. Now, conditions are ripe for a large fire and could lead to bigger changes in the ecosystem, affecting moose, bear, salmon and other creatures that have made the peninsula, just a few hours' drive from Anchorage, a tourist mecca.

''The chief reason why the beetle outbreak has been the largest and the longest is that we have had a unprecedented run of warm summers,'' said Dr. Berg, 62 a soft-spoken man in suspenders and running shoes.

Temperatures in Alaska have risen sharply in the last 30 years, causing sea ice to break up off the northern coastlines, some glaciers to recede and permafrost, to melt. But until Dr. Berg began matching raising temperatures to the number of trees killed by beetles, no one of had tied the death of a forest nearly twice the size of Yellowstone National Park to warming temperatures.

Dr. Berg believes the larger culprit is global warming, brought on by increased emissions of greenhouse gases, which trap heat in the atmosphere. But that is a bigger debate, one which Dr. Berg's findings for other forests vulnerable to bugs is that as climate warms in the north, some species of evergreen trees that cover vast acreage could be mowed down by an ever-expanding population of bettles.

The dead spruce forest of Alaska is also a lesson, to some ecologists, of how warmer temperatures present intractable problems for living things anchored to a certain area. People can adapt, or even more, but trees that have been growing in one area for 8,000 years cannot—at least not quickly enough.

Other scientists who work on global warming issues are now looking at Dr. Berg's findings.

''His work is very convincing; I would even say unimpeachable,'' said Dr. Glenn Juday, a forest ecologist at the University of Alaska. ''For the first time, I now think beetle infestation is related to climate change.''

While Dr. Juday did not collaborate on Dr. Berg's spruce studies, he relayed some of the findings at a recent conference on climate change in Oslo, as part of the Arctic Climate Impact Assessment Project, a study by scientists from several nations. It was also presented by Dr. Berg himself in a speech at an American forestry conference this year.

''There is enormous excitement over Ed Berg's studies,'' Dr. Juday said.

But other scientists are still skeptical, saying it may be only a coincidence that rising temperatures go hand in hand with growing beetle infestations. Some say he has found a big piece of the puzzle, but not all of it.

''I think Ed Berg is only partially correct,'' said Dr. Ed Holsten, who studies insects for the Forest Service in Alaska. The trees on the Kenai are old, and ripe for beetle outbreaks. If they had been logged, or burned in fire, it might have kept the bugs down, Dr. Holsten said.

The spruce beetle, which is about a quarter-inch long with six legs, is barely visible to most people who roam through evergreen forests in the West and Alaska. Large swaths of forest in Colorado, Idaho and Wyoming have been felled by the bug. But nothing has approached the Alaska kill.

The beetles take to the air in spring, looking for trees to attack. When they find a vulnerable stand, they will signal to other beetles ''a chemical message,'' Dr. Holsten says. They burrow under the bark, feeding on woody capillary tissue that the tree uses to transport nutrients.

In Dr. Berg's office, he has a cross-section of a tree that has been under attack by beetles. They build a web of canals as they eat. Eventually, the tree loses its ability to feed itself; it is essentially choked to death, a process that can take several years, Dr. Berg said.

Spruce trees produce chemicals, called terpenes, that are supposed to drive beetles off. But when so many beetles go after a single tree, the beetles usually win. As it dies, the normally green needles of spruce will turn red, and then, in later years, silver or gray. Ghostly stands of dead, silver-colored spruce—looking like black and white photographs of a forest—can be seen throughout south-central Alaska, particularly on the Kenai. Scientists estimate that 38 million spruce trees have died in Alaska in the current outbreak.

''It's very hard to live among the dead spruce; it's been a real kick in the teeth,'' said Dr. Berg. ''We all love this beautiful forest.''

One reason Dr. Berg may have been able to see the large implications of the beetle attack when others saw only dead trees is that he is one of few government scientists for the Fish and Wildlife Service who is paid to study the big picture.

His title is ecologist for the Kenai refuge. ''When they hired me they felt the need to look at things from a broader scale rather than simply do moose counts,'' he said.

Working with a doctoral student, Chris Fastie, on a federal grant, Dr. Berg has been matching the volume of dead trees to climate. Since 1987, he said, the Kenai Peninsula has had a string of above-normal temperature years, particularly in the summer. Each of those years coincided with huge outbreaks of beetle infestation and dead trees, matching warmer years and a rise in spruce kills in the early 1970's. Dr. Berg found a similar pattern in the Kluane area of the Canada's Yukon Territory, where it is much colder.

Spruce beetle eggs normally hatch by August, then spend the winter, dormant, in larvae beneath the bark. They can withstand temperatures of up to 35 degrees below zero. The normal life of a spruce beetle—if not picked off by woodpeckers or other birds—is two years. But in the warmer years, Dr. Berg and others found that the beetles were completing a two-year cycle in a single year. This mass of insects has consumed nearly every mature spruce tree on the Kenai, until there is very little left to eat. Most of the trees are more than 100 years old.

Other scientists say the warming climate may be responsible for a big part of the huge bug outbreak, but not all of it.

''These bugs are coldblooded,'' Dr. Holsten said. ''They are an early warning indicator of climate change. If it warms up enough they can complete that two-year life in a single year.''

WARMER WEATHER ALLOWS VORACIOUS INSECTS TO THRIVE

Spruce has grown on the Kenai Peninsula for about 8,000 years. Other infestations have killed up to 30 percent of a forested area, before bug populations died from fire or freeze or other natural causes. The current infestation never slowed until the beetles ran out of food.

''It slowed down only after they had literally eaten themselves out of house and home,'' Dr. Berg said.

The Forest Service has been studying beetle-killed spruce for some time, but has yet to come up with any way of attacking the insects, other than suggestions of logging and controlled-burn fires—each of which is hotly contested.

What may follow in the path of the dead forest will be likely be a mix of grasses, and more hardwood trees like birch, alder and aspens, said Dr. Berg.

Climate records have been kept for barely a hundred years in most places in Alaska. By studying tree rings—which expand in warmer years and barely grow in cold years—scientists in Alaska say the current warming period is unmatched for at least 400 years. By studying dead trees, they say they can find no evidence of a spruce beetle outbreak of this magnitude, ever.

ADDITIONAL STATEMENTS

TRIBUTE TO PATRICIA OBRADOVICH

• Mr. SMITH of Oregon. Mr. President, the late Oregon Governor Tom McCall once said, ''Heroes are not giant statues framed against a red sky. They are people who say, 'This is my community and it's my responsibility to make it better.' ''

I rise today to pay tribute to Patricia Obradovich, a remarkable Oregonian who was a true hero, because she dedicated her entire career to making her community, her State, and her Nation a better place. Patricia passed away last month at the young age of 44, after a courageous battle against cancer. Her legacy, however, will continue long into the future.

Patricia dedicated her entire professional life to working for the Federal Government. I have long believed that government service is a high and important calling. The hours are often long, the pressures are great, and the monetary compensation is frequently lower than what is available in the private sector. Patricia was one of those individuals who was more concerned with making a difference than making a fortune.

Patricia joined the U.S. Army Corp of Engineers as an economist with the Portland, OR District in May of 1981, and continued with the Corps for 21 years. In that time, she served in many roles, including Chief of Economics, Acting Chief of Planning, and Outreach Coordinator.

During her two decades of service, Patricia earned a reputation in Oregon and across the Nation as a public servant of great intelligence and integrity. She played a leadership role in formulating policy on many projects of national significance, including salmon restoration and navigation projects along the Oregon coast and the Columbia River. As an employee of the Federal Government, Patricia received a remarkable 26 awards, including an Achievement Medal for Civilian Service.

I had the occasion to meet Patricia several times, and know the very high regard in which she was held by her coworkers, her countless friends, and her loving family. It is my hope they will take solace in the fact that through two decades of doing the day-to-day work of democracy, Patricia Obradovich truly earned the title of ''hero.''•

PRAISE ON THE 12TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

• Mr. JOHNSON. Mr. President, I rise today in praise of the Americans with Disabilities Act on the occasion of its 12th anniversary. The advances in law, health care, education, transportation, and technology promoted in this historic legislation over the past 12 years have given Americans with disabilities a new lease on life.

Today, 53 million Americans live with a disability, of which 1 in 8 is severely disabled. Yet due to the landmark Americans with Disabilities Act, the stereotypes against these persons are crumbling and they are able to lead increasingly integrated fulfilled lives. The Americans with Disabilities Act has provided disabled individuals protection from discrimination in both the public and private sector, and guarantees equal access to employment, public services, and public accommodations. The Act has also spurred research and improved care for seniors, children and mentally disabled persons. In going so, this monumental Act has ensured an improved quality of life for people living with disabilities and has promised disabled children hope for a successful future. The contributions of the Americans with Disabilities Act over the past 12 years are an inspiration for what can be done to improve the lives of Americans living with disabilities, and a proponent of more progress in the future.

Once again, it gives me great pleasure to recognize and honor today's celebration on behalf of the millions of disabled Americans who may continue to benefit throughout this country.●

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 sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:03 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 1209. An act to amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed, and for other purposes.

H.R. 2175. An act to protect infants who are born alive.

H.R. 3487. An act to amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD).

At 11:08 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3479. An act to expand aviation capacity.

H.R. 3609. An act to amend title 49, United States Code, to enhance the security and safety of pipelines.

H.R. 4547. An act to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense and to prescribe military personnel strengths for fiscal year 2003.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3479. An act to expand aviation capacity.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Appropriations, without amendment:

S. 2778: An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–218).

By Mr. LEAHY, from the Committee on Appropriations, without amendment:

S. 2779: An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–219) .

By Mr. REID, from the Committee on Appropriations, without amendment:

S. 2784: An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–220).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LIEBERMAN for the Committee on Governmental Affairs.

James E. Boasberg, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

*Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget.

*Michael D. Brown, of Colorado, to be Deputy Director of the Federal Emergency Management Agency.

(*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CRAIG:

S. 2777. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the treatment of qualified public educational facility bonds as exempt facility bonds; to the Committee on Finance.

By Mr. HOLLINGS:

S. 2778. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. LEAHY:

S. 2779. An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. FEINGOLD:

S. 2780. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States; to the Committee on Environment and Public Works.

By Mr. REID (for himself, Mr. BURNS, and Mr. ENSIGN):

S. 2781. A bill to amend the Petroleum Marketing Practices Act to extend certain protections to franchised refiners or distributors of lubricating oil; to the Committee on Energy and Natural Resources.

By Mr. SMITH of Oregon (for himself, Mr. REID, Mr. WYDEN, Mr. ENSIGN, Mrs. CLINTON, Mr. SCHUMER, Mrs. BOXER, and Mrs. FEINSTEIN):

S. 2782. A bill to amend part C of title XVIII of the Social Security Act to consolidate and restate the Federal laws relating to the social health maintenance organization projects, to make such projects permanent, to require the Medicare Payment Advisory Commission to conduct a study on ways to expand such projects, and for other purposes; to the Committee on Finance.

By Mrs. CARNAHAN:

S. 2783. A bill to amend the Internal Revenue Code of 1986 to restore the tax exempt status of death gratuity payments to members of the uniformed services; to the Committee on Finance.

By Mr. REID:

S. 2784. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. JOHNSON (for himself and Mr. DURBIN):

S. 2785. A bill to amend the Internal Revenue Code of 1986 to provide a tax filing delay for members of the Armed Forces serving in a contingency operation; to the Committee on Finance.

By Mr. ALLARD:

S. 2786. A bill to provide a cost-sharing requirement for the construction of the Arkansas Valley Conduit in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 2787. A bill to amend the Internal Revenue Code of 1986 to exempt certain United States international ports from the harbor maintenance tax; to the Committee on Finance.

By Mr. DASCHLE:

S. 2788. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota; to the Committee on Energy and Natural Resources.

By Mr. HARKIN:

S. 2789. A bill to expand the eligibility for membership in veterans organizations; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 121

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 121, a bill to establish an Office of Children's Services within the Department of Justice to coordinate

and implement Government actions involving unaccompanied alien children, and for other purposes.

S. 281

At the request of Mr. HAGEL, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 281, a bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial.

S. 454

At the request of Mr. BINGAMAN, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 454, a bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 882

At the request of Ms. MIKULSKI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 882, a bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes.

S. 913

At the request of Ms. SNOWE, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor 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. 1777

At the request of Mrs. CLINTON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1777, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes.

S. 2188

At the request of Mr. BREAUX, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2188, a bill to require the Consumer Product Safety Commission to amend its flammability standards for children's sleepwear under the Flammable Fabrics Act.

At the request of Mr. SMITH of New Hampshire, his name was added as a cosponsor of S. 2188, supra.

S. 2211

At the request of Mr. HUTCHINSON, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2211, a bill to amend title 10, United States Code, to apply the additional retired pay percentage for extraordinary heroism to the computation of the retired pay of enlisted members of the Armed Forces who are retired for any reason, and for other purposes.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2221

At the request of Mr. ROCKEFELLER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2221, a bill to temporarily increase the Federal medical assistance percentage for the Medicaid program.

S. 2233

At the request of Mr. THOMAS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2233, a bill to amend title XVIII of the Social Security Act to establish a Medicare subvention demonstration project for veterans.

S. 2466

At the request of Mr. KERRY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2466, a bill to modify the contract consolidation requirements in the Small Business Act, and for other purposes.

S. 2531

At the request of Ms. COLLINS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2531, a bill to amend the Public Health Service Act to authorize the Commissioner of Food and Drugs to conduct oversight of any entity engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue or human tissue-based products.

S. 2592

At the request of Ms. LANDRIEU, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2592, a bill to provide affordable housing opportunities for families that are headed by grandparents and other relatives of children, and for other purposes.

S. 2596

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2596, a bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund.

S. 2602

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2602, a bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 55 shall not result in termination of dependency and indemnity compensation.

S. 2683

At the request of Mr. HUTCHINSON, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 2683, a bill to amend the Internal Revenue Code of 1986 to clarify that church employees are eligible for the exclusion for qualified tuition reduction programs of charitable educational organizations.

S. 2734

At the request of Mr. KERRY, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 2734, a bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

S. 2748

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2748, a bill to authorize the formulation of State and regional emergency telehealth network testbeds and, within the Department of Defense, a telehealth task force.

S. 2753

At the request of Mr. KERRY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2753, a bill to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes.

S. 2760

At the request of Mr. ENZI, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2760, a bill to direct the Securities and Exchange Commission to conduct a study and make recommendations regarding the accounting treatment of stock options for purposes of the Federal securities laws.

S. RES. 242

At the request of Mr. THURMOND, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Illinois (Mr. DURBIN) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as ''National Airborne Day''.

S. RES. 289

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Res. 289, a resolution expressing the sense of the Senate that a commemorative postage stamp should be issued to celebrate the Bicentennial of the Louisiana Purchase.

S. CON. RES. 107

At the request of Mr. CRAIG, the name of the Senator from South Dakota (Mr. JOHNSON) 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.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG:

S. 2777. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the treatment of qualified public educational facility bonds as exempt facility bonds; to the Committee on Finance.

Mr. CRAIG. Mr. President, I rise today to introduce. The Permanent Tax Relief for School Construction Act to make permanent the tax benefits we enacted last year relating to private activity bonds for school construction.

Last year, we approved a tax bill which had many important provisions. Unfortunately, these provisions only last until the end of 2010. That's a pretty poor way to engineer the tax code. American families and businesses only have nine years to reap the benefits of lower taxes, and right when they are getting used to the current tax code, it will revert to its pre-2001 level. That is simply unfair. In order to plan for the long term, families and businesses need to know that the lower taxes we enacted last year will be permanent.

An important part of the tax package that we approved last year was the inclusion of elementary and secondary public education under the private activities for which tax exempt bonds are issued. This provision will make it easier for States and school districts to raise money to build schools. In a State like mine, where there is a pressing need for school construction and not much revenue to fund it, this tax provision is very important. To see it end in 2010 would prevent many necessary facilities from being built.

The harm caused by the sunsetting of this tax provision is clearly illustrated by the plight of many of my State's school districts. During may travels throughout Idaho, I visited quite a few schools, many of which were the products of New Deal work projects in the 1930's. These schools are falling part now, though, and school districts have a very difficult time raising the necessary revenue to construct new buildings. Idaho, like many States, is suffering from reduced tax revenue, so aid from the State is just not available to supplement school districts' revenue. Another problem is that it takes a super-majority to pass a levy to raise property taxes to finance school districts, and in quite a few of Idaho's districts, taxpayers are already paying high taxes. In many instances, the revenue isn't there for school districts.

We recognized that problem last year and helped out school districts by providing tax incentives for school construction bonds. This type of tax relief is the best way we in Washington can help school districts. Even though we've been increasing the Federal role in education over the past few years, education matters such as school construction are still primarily a local function, as they should be. Every step we take to insert a Federal role into this local authority is a step that must be carefully considered. By providing tax incentives for these local school districts, though, we are not undermining their authority. We are giving them tools to help themselves, and help the children they are serving. Let's make sure that the tax code lets them continue to help these children after 2010, so that no child is ever left behind.

By Mr. FEINGOLD:

S. 2780. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United Sates; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, I rise today to introduce important legislation to affirm Federal jurisdiction over isolated wetlands. I am please to be joined by Representatives OBERSTAR and DINGELL, who are today introducing companion legislation in the House of Representatives.

In the U.S. Supreme Court's January 2001 decision, Solid Waste Agency of Northern Cook County versus the Army Corps of Engineers, a 5 to 4 majority limited the authority of Federal agencies to use the so-called migratory bird rule as the basis for asserting Clean Water Act jurisdiction over nonnavigable, intrastate, isolated wetlands, streams, ponds, and other waterbodies.

This decision, known as the SWANCC decision, means that the Environmental Protection Agency and Army Corps of Engineers can no longer enforce Federal Clean Water Act protection mechanisms to protect a waterway solely on the basis that it is used as habitat for migratory birds.

In its discussion of the case, the Court went beyond the issue of the migratory bird rule and questioned whether Congress intended the Clean Water Act to provide protection for isolated ponds, streams, wetlands and other waters, as it had been interpreted to provide for most of the last 30 years. While not the legal holding of the case, the Court's discussion has resulted in a wide variety of interpretations by EPA and Corps officials that jeopardize protection for wetlands, and other waters. The wetlands at risk include prairie potholes and bogs, familiar to many in Wisconsin, and many other types of wetlands.

In effect, the Court's decision removed much of the Clean Water Act protection for between 30 percent to 60 percent of the Nation's wetlands. An estimate from my home state of Wisconsin suggested that more than 60 percent of the wetlands lost Federal protection in my State. My State is not alone. The National Association of State Wetland Managers have been collecting data from states across the country. For example, Nebraska estimates they will lose more than 40 percent of their wetlands. Indiana estimates they will lose 31 percent of total wetland acreage and 74 percent of the total number of wetlands. Delaware estimates the loss of 33 percent or more of their freshwater wetlands. These wetlands absorb floodwaters, prevent pollution from reaching our rivers and streams, and provide crucial habitat for most of the nations ducks and other waterfowl, as well as hundreds of other bird, fish, shellfish and amphibian species. Loss of these waters would have a devastating effect on our environment.

In addition, by narrowing the water and wetland areas subject to Federal regulation, the decision also shifts more of the economic burden for regulating wetlands to State and local governments. My home State of Wisconsin has passed State legislation to assume the regulation of isolated waters, but many other States have not. This patchwork of regulation means that the standards for protection of wetlands nationwide is unclear, confusing, and jeopardizes the migratory birds and other wildlife that depend on these wetlands.

Therefore, Congress needs to re-establish the common understanding of the Clean Water Act's jurisdiction to protect all waters of the U.S. the understanding that Congress had when the Act was adopted in 1972 as reflected in the law, legislative history, and longstanding regulations, practice, and judicial interpretations prior to the SWANCC decision.

The proposed legislation does three things. It adopts a statutory definition of ''waters of the United States'' based on a longstanding definition of waters in the Corps of Engineers' regulations. Second, it deletes the term ''navigable'' from the Act to clarify that Congress's primary concern in 1972 was to protect the nation's waters from pollution, rather than just sustain the navigability of waterways, and to reinforce that original intent.

Finally, it includes a set of findings that explain the factual basis for Congress to assert its constitutional authority over waters and wetlands, including those that are called isolated, on all relevant Constitutional grounds, including the Commerce Clause, the Property Clause, the Treaty Clause, and the Necessary and Proper Clause. Additionally, the findings clarify Congress' view that protection of isolated wetlands and other waters is critical to protect water quality, public safety, wildlife, and other public interests, including hunting and fishing.

I also am very pleased to be have the support of so many environmental and

conservation groups, and well as organizations that represent those who regulate and manage our country's wetlands such as Natural Resources Defense Council, Earthjustice, National Wildlife Federation, Sierra Club, and the National Association of State Wetland Managers. They know, as I do, that we need to re-affirm the Federal role in isolated wetland protection. This legislation is a first step in doing just that.

By Mr. REID (for himself, Mr. BURNS, and Mr. ENSIGN):

S. 2781. A bill to amend the Petroleum Marketing Practices Act to extend certain protections to franchised refiners or distributors of lubricating oil; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, during the 103rd Congress in 1994, the Petroleum Marketing Practices Act, PMPA, was amended to protect independent petroleum wholesalers and retailers from arbitrary and unfair termination or nonrenewal of their franchise relationships with major oil companies.

However, this protection was provided only to motor and diesel fuel franchisees. Franchisees of other petroleum products sold by the major oil companies lack similar protection.

Today, I rise with Senators BURNS and ENSIGN to introduce a bill that extends the same protections enjoyed by the motor fuel industry to the lubricant industry.

I have heard from a constituent in Nevada that his franchise agreement to sell lubricating oils to car dealers in Las Vegas was arbitrarily canceled with 30 days notice. In essence, he had thirty days to convert all of his customers to a new brand.

This seem grossly unfair and, in fact, if the product sold by my constituent were gasoline or diesel fuel rather than lubricating oil, it would have been illegal.

I have been made aware of similar terminations or non-renewals in other states.

Without equal protection under the law, lubricant franchisees are vulnerable to predatory cancellation by their suppliers. This situation is exacerbated by recent mergers and acquisitions in the petroleum industry.

The merger of oil giants Chevron and Texaco and Shell Oil's recent acquisition of Penzoil-Quaker State will undoubtedly result in the termination of many independent lubricant franchisees. In New Mexico, there was a lubricant franchisee who had been promoting and distributing a branded lubricant to his customers for over 30 years, only be canceled with 30 days notice following a merger of refiners. This unfair practice stifles competition in the marketplace and invariably results in raising the price of the product, which hurts American consumers and small business. This is especially troublesome in rural areas.

Given the increasingly anti-competitive nature of the petroleum industry, the time has come to extend protections under current law for motor fuel marketers to include lubricant franchisees.

There are approximately 3,500 independent distributors and nearly 25,000 commercial retail lube oil outlets that could be impacted by the increasing frequency of lubricant franchise cancellations. Refiners have not suffered by complying with PMPA in motor fuels. Consequently, it is hard to believe it would be much of an imposition to include the much small segment of lubricant franchisees.

I introduce this bill today because it protects small businesses, benefits consumers and ensure fair competition in the marketplace.

In short, this bill is the right thing to do and I hope my colleagues will support it.

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

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

S. 2781

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

SECTION 1. PROTECTION OF FRANCHISED DISTRIBUTORS OF LUBRICATING OIL.

(a) DEFINITIONS.—Section 101 of the Petroleum Marketing Practices Act (15 U.S.C. 2801) is amended—

(1) in paragraph (1)(B)—

(A) in clause (ii)(II), by striking ''and'' at the end;

(B) by redesignating clause (iii) as clause (iv); and

(C) by inserting after clause (ii) the following:

''(iii) any contract under which a refiner authorizes or permits a distributor to use, in connection with the sale, consignment, or distribution of lubricating oil, a trademark that is owned or controlled by the refiner; and'';

(2) in paragraphs (2), (5), and (6), by inserting ''or lubricating oil'' after ''motor fuel'' each place it appears;

(3) by striking paragraphs (3) and (4) and inserting the following:

''(3) FRANCHISEE.—The term 'franchisee' means—

''(A) a retailer or distributor that is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of motor fuel; or

''(B) a distributor that is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of lubricating oil.

''(4) FRANCHISOR.—The term 'franchisor' means—

''(A) a refiner or distributor that authorizes or permits, under a franchise, a retailer or distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel; or

''(B) a refiner that authorizes or permits, under a franchise, a distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel.''; and

(4) by adding at the end the following:

''(20) LUBRICATING OIL.—The term 'lubricating oil' means any grade of paraffinic or naphthenic lubricating oil stock that is refined from crude oil or synthetic lubricants.''.

(b) PROTECTION OF FRANCHISED DISTRIBUTORS OF LUBRICATING OIL.—Section 102(b)(2) of the Petroleum Marketing Practices Act (15 U.S.C. 2802(b)(2)) is amended by inserting after subparagraph (E) the following:

''(F) FRANCHISED DISTRIBUTORS OF LUBRICATING OIL.—In the case of a franchise between a refiner or a distributor for the sale, distribution, or consignment of trademarked lubricating oil, a determination made by the franchisor in good faith and in the normal course of business to withdraw from the marketing of the lubricating oil in the relevant geographic market in which the franchised lubricating oil is distributed, if—

''(i) the determination is made—

''(I) after the date on which the franchise is entered into or renewed; and

''(II) on the basis of a change in relevant facts or circumstances relating to the franchise that occurs after the date specified in subclause (I); and

''(ii) the termination or nonrenewal is not for the purpose of converting any accounts subject to the franchise to the account of the franchisor.''.

By Mr. SMITH of Oregon (for himself, Mr. REID, Mr. WYDEN, Mr. ENSIGN, Mrs. CLINTON, Mr. SCHUMER, Mrs. BOXER, and Mrs. FEINSTEIN):

S. 2782. A bill to amend part C of title XVII of the Social Security Act to consolidate and restate the Federal laws relating to the social health maintenance organization projects, to make such projects permanent, to require the Medicare Payment Advisory Commission to conduct a study on ways to expand such projects, and for other purposes; to the Committee on Finance.

Mr. SMITH of Oregon. Mr. President, I rise today to introduce a bill that will make Medicare's Social Health Maintenance Organization, SHMO, demonstration a permanent part of the Medicare+Choice, M+C, program. I am joined by my colleagues from Oregon, New York, Arizona, and California. The Social HMO demonstration was authorized 17 years ago to test models for improving care for frail seniors, expanding access to social and supportive services and better integrating these expanded benefits with medical services. Clearly, a seventeen year test is long enough—it's time for this successful program to become a permanent choice for Medicare beneficiaries.

Close to 80 percent of national health care expenditures are for persons with chronic conditions. Medicare beneficiaries are disproportionately affected by chronic illness. About 85 percent of people 65 and older have one chronic condition, and two thirds have two or more. Fully a third of Medicare beneficiaries have four or more chronic conditions. This group accounts for almost 80 percent of all Medicare spending. Yet, despite the predominance of chronic illness among seniors, Medicare continues to operate as an acute care model. So many of the services that are central to the health care needs of seniors are not covered by Medicare, including a number of preventive services, care coordination and disease management services, and home and community-based support services.

Social HMOs provide the care coordination and disease management services so critically important to frail and at-risk seniors with multiple chronic conditions and complex care needs. They are required to provide expanded care benefits such as prescription drugs, ancillary services such as eyeglasses and hearing aids, and community-based services such as personal care, homemaker services, adult day care, meals, and transportation. These services meet the chronic health care needs of seniors, helping them remain independent, while reducing Medicaid expenditures by avoiding or delaying nursing home placement.

Several recent studies have shown that Social HMO members are about 40 percent to 50 percent less likely to have long-term nursing home placements than comparison group members. Further, in a recent survey of Social HMO beneficiaries, over three-quarter of respondents indicated that the special services offered by their Social HMO were important to allowing them to keep living at home. Enhanced Social HMO services, such as early detection of illness, development of coordinated care plans to address problems identified during routine assessments, screening, and ongoing monitoring of care, has paid off in improved health outcomes for beneficiaries.

I am fortunate to represent one of the four original Social HMOs that were approved as part of the initial Medicare demonstration project in 1985. Senior Advantage II, offered by Kaiser Permanente's Northwest Division, currently serves about 4,300 Medicare beneficiaries from Salem, OR to Longview, WA, with its primary service area in Portland, OR. Since Kaiser opened its Social HMO program, it has served close to 15,000 beneficiaries with its enhanced benefits and special geriatric programs, which have led to fewer overall nursing home care days and a more consumer-oriented approach to care for frail or ill seniors.

The legislation I am introducing with my distinguished colleagues today would make permanent the existing Social HMO plans, like Kaiser, and would lay the ground work for evaluating whether to expand and replicate this model. Our bill requires the Secretary to conduct a comparative study of beneficiary and family member satisfaction to see how Social HMOs compare to Medicare+Choice and fee-for-service Medicare. It also requires MedPAC to evaluate the cost-effectiveness of Social HMOs with respect to reduced nursing home admissions, reduced incidence of Medicaid spend-down, and other aspects of the model that represent potential cost-savings. If MedPAC finds that Social HMOs are cost-effective, it must make recommendations to Congress on expanding and replicating this model.

To ensure that beneficiaries continue to receive the value added they have come to enjoy under this program, the Social HMOs must continue to provide the expanded benefit package currently offered under this legislation. Further, this benefit could not be changed by the Secretary without notification of Congress. Finally, to ensure that Social HMOs, which have significantly higher risk levels than average Medicare+Choice plans, can continue to finance a high level of benefits, any changes in plans' existing payments would need to go through a formal rulemaking process.

The Social HMO demonstration project has been re-validated by six acts of Congress since its creation. It is time to make this program permanent and lend a measure of stability to the plans and beneficiaries served by this innovative model. This program represents a fiscally sound approach to helping manage the chronic health care needs of our Nation's seniors, and I urge all of my colleagues to join with me and the rest of this bill's cosponsors in support of this important legislation.

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

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

S. 2782

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Seniors Health and Independence Preservation Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Making the social health maintenance organization (SHMO) projects permanent.
Sec. 3. Expansion of SHMO projects into noncontiguous service areas within a State.
Sec. 4. Permanence of SHMO planning grant sites.
Sec. 5. Procedures for SHMO benefit and payment mechanism changes.
Sec. 6. Comprehensive MedPAC study on SHMO I and SHMO II cost-effectiveness and potential expansion.
Sec. 7. SHMO Beneficiary satisfaction survey.
Sec. 8. Conforming cross-references.
Sec. 9. Legislative purpose and construction.
Sec. 10. Repeals.

SEC. 2. MAKING THE SOCIAL HEALTH MAINTENANCE ORGANIZATION (SHMO) PROJECTS PERMANENT.

Part C of title XVIII of the Social Security Act (42 U.S.C. 1395w–21 et seq.) is amended by inserting after section 1857 the following new section:

''WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS

''SEC. 1858. (a) ESTABLISHMENT OF SHMO PROJECTS.—In the case of a project described in subsection (b), the Secretary shall approve, with appropriate terms and conditions as defined by the Secretary, applications or protocols submitted for waivers described in subsection (c), and the evaluation of such protocols, in order to carry out such project. Such approval shall be effected not later than 30 days after the date on which the application or protocol for a waiver is submitted or not later than 30 days after the date of enactment of the Deficit Reduction Act of 1984 (Public Law 98–369; 98 Stat. 494) in the case of an application or protocol submitted before the date of enactment of such Act. Not later than 36 months after the date of enactment of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388), the Secretary shall approve applications or protocols described in paragraph (1) for not more than 4 additional projects described in subsection (b).

''(b) PROJECTS DESCRIBED.—A project referred to in subsection (a) is a project—

''(1) to demonstrate—

''(A) the concept of a social health maintenance organization with the organizations as described in Project No. 18–P–9 7604/1–04 of the University Health Policy Consortium of Brandeis University; or

''(B) in the case of a project conducted as a result of the amendments made by section 4207(b)(4)(B)(i) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118), the effectiveness and feasibility of innovative approaches to refining targeting and financing methodologies and benefit design, including the effectiveness of feasibility of—

''(i) the benefits of expanded post-acute and community care case management through links between chronic care case management services and acute care providers;

''(ii) refining targeting or reimbursement methodologies;

''(iii) the establishment and operation of a rural services delivery system;

''(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply); or

''(v) the effectiveness of second-generation sites in reducing the costs of the commencement and management of health care service delivery;

''(2) which provides for the integration of health and social services under the direct financial management of a provider of services;

''(3) under which all services under this title will be provided by or under arrangements made by the organization at a fixed annual prepaid capitation rate for medicare of 100 percent of the adjusted average per capita cost; and

''(4) under which services under title XIX will be provided at a rate approved by the Secretary.

''(c) WAIVERS.—The waivers referred to in subsection (a) are appropriate waivers of—

''(1) certain requirements of this title, pursuant to section 402(a) of the Social Security Amendments of 1967 (Public Law 90–248; 81 Stat. 930), as amended by section 222 of the Social Security Amendments of 1972 (Public Law 92–603; 86 Stat. 1390);

''(2) certain requirements of title XIX, pursuant to section 1115; and

''(3) in the case of a project conducted as a result of the amendments made by section 4207(b)(4)(B)(i) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118), any requirements of title XVIII or XIX that, if imposed, would prohibit such project from being conducted.

''(d) AGGREGATE LIMIT ON NUMBER OF MEMBERS.—The Secretary may not impose a limit on the number of individuals that may participate in a project conducted under this section, other than an aggregate limit of not less than 324,000 for all sites.

''(e) REPORTS.—

''(1) PRELIMINARY REPORT.—The Secretary shall submit a preliminary report to Congress on the status of the projects and waivers referred to in subsection (a) 45 days after the date of enactment of the Deficit Reduction Act of 1984 (Public Law 98–369; 98 Stat. 494).

''(2) INTERIM REPORT.—The Secretary shall submit an interim report to Congress on the projects referred to in subsection (a) not later than 42 months after the date of enactment of the Deficit Reduction Act of 1984 (Public Law 98–369; 98 Stat. 494).

''(3) SECOND INTERIM REPORT.—The Secretary shall submit a second interim report to Congress on the project referred to in paragraph (1) not later than March 31, 1993.

''(4) REPORT ON INTEGRATION AND TRANSITION.—

''(A) IN GENERAL.—The Secretary shall submit to Congress, by not later than January 1, 1999, a plan for the integration of health plans offered by social health maintenance organizations (including SHMO I and SHMO II sites developed under this section and similar plans) as an option under the Medicare+Choice program under this title.

''(B) PROVISION FOR TRANSITION.—The plan submitted under subparagraph (A) shall include a transition for social health maintenance organizations operating under the project authority under this section.

''(C) PAYMENT POLICY.—The report shall also include recommendations on appropriate payment levels for plans offered by such organizations, including an analysis of the application of risk adjustment factors appropriate to the population served by such organizations.

''(5) HHS REPORT.—The Secretary shall submit a report on the projects conducted under this section not later than the date that is 21 months after the date on which the Secretary submits to Congress the report described in paragraph (4).

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,500,000 for the costs of technical assistance and evaluation related to projects conducted as a result of the amendments made by section 4207(b)(4)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118).''.

SEC. 3. EXPANSION OF SHMO PROJECTS INTO NONCONTIGUOUS SERVICE AREAS WITHIN A STATE.

Not later than the date that is 90 days after the date of enactment of this Act, the Secretary shall promulgate a regulation that permits each social health maintenance organization participating in a project conducted under section 1858 of the Social Security Act (as added by section 2) to expand the service area of such organization to include areas within the State served by the organization that are not contiguous to any other service area of the organization.

SEC. 4. PERMANENCE OF SHMO PLANNING GRANT SITES.

(a) ORIGINAL SHMO II DEMONSTRATIONS.—The 5 organizations authorized by section 4207(b)(4)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118) to demonstrate the concept of social health maintenance organizations that were approved by the Secretary of Health and Human Services in 1995 shall be permitted to participate in the program under section 1858 of the Social Security Act (as added by section 2).

(b) SHMO II DUAL-ELIGIBLE PLANNING GRANTS.—Each entity that received a planning grant in 1998 under the 1997 Grants Program for Reforming Service Delivery for Dual Eligible Beneficiaries to develop a Second Generation Social HMO Demonstration Program shall be permitted to participate in the program under section 1858 of the Social Security Act (as added by section 2).

SEC. 5. PROCEDURES FOR SHMO BENEFIT AND PAYMENT MECHANISM CHANGES.

(a) CONGRESSIONAL NOTIFICATION OF BENEFIT CHANGES.—The Secretary of Health and Human Services shall notify the appropriate committees of Congress prior to making any change to the benefits available under a project under section 1858 of the Social Security Act (as added by section 2).

(a) RULEMAKING REQUIREMENT FOR PAYMENT MECHANISM CHANGES.—The Secretary may not change the payment mechanism applicable with respect to any social health maintenance organization project under section 1858 of the Social Security Act (as added by section 2), except by regulation.

SEC. 6. COMPREHENSIVE MEDPAC STUDY ON SHMO I AND SHMO II COST-EFFECTIVENESS AND POTENTIAL EXPANSION.

(a) STUDY.—

(1) IN GENERAL.—The Medicare Payment Advisory Commission established under section 1805 of the Social Security Act (42 U.S.C. 1395b–6) (in this section referred to as the ''Commission'') shall conduct a study on the cost-effectiveness of the projects and the potential expansion of such projects.

(2) COST-EFFECTIVENESS.—

(A) IN GENERAL.—In determining the cost-effectiveness of the projects under the study conducted under paragraph (1), the Commission shall take into account—

(i) the extent to which the per beneficiary costs to the medicare program for enrollees in a social health maintenance organization do not exceed the average per beneficiary costs to the medicare program for a comparable case mix of beneficiaries who are enrolled in the original medicare fee-for-service program;

(ii) the actuarial value of items and services available to beneficiaries enrolled in a social health maintenance organization but not available to beneficiaries enrolled in the original medicare fee-for-service program; and

(iii) the extent to which social health maintenance organizations reduced expenditures under the medicaid program under title XIX of the Social Security Act by—

(I) preventing individuals from being eligible for medical assistance under such program as medically needy individuals through the application of spend-down requirements for income and resources; or

(II) reducing the number of nursing home bed days associated with stays of 60 days or longer for medicaid beneficiaries.

(B) COMPARABLE CASE MIX.—In evaluating a comparable case mix of beneficiaries for purposes of clause (i)(I), the Commission shall take into account the following factors:

(i) Age.

(ii) Gender.

(iii) Diagnoses.

(iv) Functional status.

(v) Any other available demographic or illness factor deemed appropriate by the Commission.

(C) DATA.—In determining the cost-effectiveness of social health maintenance organizations under this subsection, the Commission shall evaluate data from social health maintenance organizations for the period beginning on January 1, 1997, and ending on the first December 31 occurring after the date of enactment of this Act.

(b) REPORT.—

(1) IN GENERAL.—Not later than the date that is 24 months after the date of enactment of this Act, the Commission shall submit to the Secretary of Health and Human Services and to the appropriate committees of Congress a report on the study conducted under subsection (a)(1).

(2) CONTENTS.—The report submitted under paragraph (1) shall contain—

(A) a statement regarding whether the Commission finds social health maintenance organizations to be cost-effective;

(B) recommendations regarding whether the projects should be expanded to include additional sites and whether additional social health maintenance organizations should be permitted to participate in the projects;

(C) recommendations on whether to modify or eliminate the aggregate limit on number of members under section 1858(d) of the Social Security Act (as added by section 2); and

(D) if the Commission recommends expansion or replication of the projects, recommendations on the appropriate implementation of such expansion.

(c) DEFINITIONS.—In this section:

(1) PROJECT.—The term ''project'' means a project conducted under section 1858 of the Social Security Act (as added by section 2) other than a project described in subsection (b)(1)(B)(iv) of such section.

(2) MEDICARE PROGRAM.—The term ''medicare program'' means the health benefits program under title XVIII of the Social Security Act.

(3) ORIGINAL MEDICARE FEE-FOR-SERVICE PROGRAM.—The term ''original medicare fee-for-service program'' means the program under parts A and B of the medicare program.

(4) SOCIAL HEALTH MAINTENANCE ORGANIZATION.—The term ''social health maintenance organization'' means an organization participating in a SHMO I project described in subparagraph (A) of section 1858(b)(1) of the Social Security Act (as added by section 2) or a SHMO II project described in subparagraph (B) of such section (other than a project described in clause (iv) of such subparagraph).

SEC. 7. SHMO BENEFICIARY SATISFACTION SURVEY.

(a) SURVEY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a comparative qualitative survey of the satisfaction of medicare beneficiaries enrolled in—

(A) the original medicare fee-for-service program under parts A and B of title XVIII of the Social Security Act;

(B) a Medicare+Choice plan under part C of title XVIII of such Act; and

(C) a social health maintenance organization under section 1858 of such Act (as added by section 2).

(2) CONSIDERATIONS.—In determining beneficiary satisfaction, the Secretary of Health and Human Services shall take into account—

(A) the differences in the program or plan benefit structure;

(B) the extent to which the program or plan benefit structure enables beneficiaries to avoid or delay institutionalization;

(C) the amount of out-of-pocket costs saved by beneficiaries under the program or plan for traditional and expanded care services;

(D) the access to services by beneficiaries under the program or plan; and

(E) the satisfaction level of family members and caregivers of beneficiaries enrolled in the program or plan.

(b) PUBLICATION OF RESULTS AND SUBMISSION TO CONGRESS.—Not later than the date that is 24 months after the date of enactment of this Act, the Secretary of Health and Human Services shall post the results of the survey conducted under subsection (a)(1) on an Internet website and shall submit such results to the appropriate committees of Congress.

SEC. 8. CONFORMING CROSS-REFERENCES.

(a) SOCIAL SECURITY ACT.—

(1) The last sentence of section 1853(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w–

23(a)(1)(B)), as added by section 605(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–556), is amended by striking ''(established by section 2355 of the Deficit Reduction Act of 1984, as amended by section 13567(b) of the Omnibus Budget Reconciliation Act of 1993)'' and inserting ''(established by section 1858)''.

(2) Section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)) is amended by striking ''section 2355 of the Deficit Reduction Act of 1984'' and inserting ''section 1858''.

(b) MEDICARE, MEDICAID, AND SCHIP BENEFITS IMPROVEMENT AND PROTECTION ACT OF 2000.—Section 542(b)(2)(B)(iv) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–551), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by striking ''section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203)'' and inserting ''section 1858 of the Social Security Act''.

SEC. 9. LEGISLATIVE PURPOSE AND CONSTRUCTION.

(a) PRINCIPAL SUBSTANTIVE CHANGES TO MAKE SHMO PROJECTS PERMANENT.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), section 2—

(A) restates, without substantive change, laws enacted before January 24, 2002, that were replaced by that section;

(B) may not be construed as making a substantive change in the laws replaced; and

(C) is superseded by any law that is enacted after January 24, 2002, that is inconsistent with such section or that supersedes that section to the extent of the inconsistency.

(2) PERMANENCY.—Section 2 extends the social health maintenance organization projects for an indefinite time period (beyond the date that is 30 months after the date that the Secretary submits to Congress the report described in section 1858(e)(4) of the Social Security Act, as added by section 2).

(3) MODIFICATION OF CERTAIN REPORTING REQUIREMENTS.—

(A) The report required to be submitted by the Secretary of Health and Human Services under section 1858(e)(5) of the Social Security Act (as added by section 2) is the same report as is required under the first sentence of section 4018 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–65), except that such report is no longer characterized as a final report.

(B) The Medicare Payment Advisory Commission established under section 1805 of the Social Security Act (42 U.S.C. 1395b–6) shall not be required to submit the report described in the second sentence of section 4018 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–65).

(b) REFERENCES.—A reference to a law replaced by section 2, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by section 2 shall continue in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) ACTIONS UNDER PRIOR LAW.—An action taken under a law replaced by section 2 is deemed to have been taken under the corresponding provision enacted by this Act.

(e) INFERENCES.—No inference of legislative construction may be drawn by reason of a heading of a provision.

(f) SEVERABILITY.—If a provision enacted by this Act is—

(1) held invalid, each valid provision that is severable from the invalid provision shall remain in effect; and

(2) held invalid with respect to any application, the provision shall remain valid with respect to each valid application that is severable from the invalid application.

SEC. 10. REPEALS.

(a) INFERENCES OF REPEAL.—The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) LAWS REPEALED.—Except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act, the following provisions (and amendments made by such provisions) are repealed:

(1) Section 2355 of the Deficit Reduction Act of 1984 (Public Law 98–369; 98 Stat. 1103).

(2) Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–65).

(3) Section 4207(b)(4) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118).

(4) Section 13567 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 607).

(5) Paragraphs (6) through (8) of section 160(d) of the Social Security Act Amendments of 1994 (Public Law 103–432; 108 Stat. 4443).

(6) Section 4014 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 336).

(7) Section 531 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F of Public Law 106–113; 113 Stat. 1501A–388).

(8) Section 631 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Appendix F of Public Law 106–554; 114 Stat. 2763A–566).

By Mrs. CARNAHAN:

S. 2783. A bill to amend the internal Revenue Code of 1986 to restore the tax exempt status of death gratuity payments to members of the uniformed services; to the Committee on Finance.

Mrs. CARNAHAN. Mr. President, I send a bill to the desk and ask that it be appropriately referred.

Today I am introducing legislation to correct a flaw in our tax system that penalizes the families of those who die while serving in our Armed Forces. The Honor Our Heroes Act will restore compassion to the tax code. It exempts from taxation the money the government provides following the death of an active duty servicemember. This payment is known as the death gratuity benefit.

Families are often crushed by the weight of funeral and other immediate expenses after a spouse, parent, or child is killed while serving in the military. Congress recognized that, at the very least, we owe these men and women assistance with this burden. In 1986, when the benefit was set at $3,000, Congress made this payment tax free. Over the years, rising costs led Congress to increase the payment to $6,000, but Congress did not make a corresponding change in the tax code. As a result, today, half of the payment is subject to the income tax.

Now, bereaved families receive this money with a red flag. Families are getting get less than the $6,000 Congress meant for them to have. We end up giving with one hand and taking away with the other.

Missouri has given two of her sons in the War on Terrorism. The families of these men made the greatest sacrifice possible. We should not be asking them to pay taxes on the benefit the government gives them to help pay for funeral expenses and other costs. But since 1991, thousands of families have had to pay these taxes. During this time, especially, when so many of members of the military are putting themselves directly in harm's way, we cannot let this unfair taxation continue.

Our colleagues in the House have taken an important step toward repairing this flaw, but they neglect the families for whom a future increase in the death gratuity would lead to tax liability. My bill leaves no such doubt. The Honor Our Heroes Act makes the entire amount of the death gratuity payment exempt from taxes, immediately and permanently. This bill ensures that payments made to families of servicemembers are never taxed again.

The legislation I am introducing today will make our Nation's gratitude tax-free to families coping with the death of a loved one. We owe this to our men and women in uniform, and pray that their families never have to face such a loss. I encourage my colleagues to support this bill.

By Mr. JOHNSON (for himself and Mr. DURBIN):

S. 2785. A bill to amend the Internal Revenue Code of 1986 to provide a tax filing delay for members of the Armed Forces serving in a contingency operation; to the Committee on Finance.

Mr. JOHNSON. Mr. President, I am pleased to rise today to introduce the Armed Forces Filing Fairness Act of 2002.

Current law allows for servicemembers serving in a combat zone, like Afghanistan, to receive a tax filing extension. The Armed Forces Filing Fairness Act will extend that filing deadline for military servicemembers serving in contingency operations as well. This bill would allow the military servicemember to delay filing taxes until they have returned to the United States, or when the combat zone or contingency area is no longer designated as such by the Department of Defense.

As the father of a son who serves in the Army and has recently returned from Afghanistan, I am pleased to introduce legislation that will help to lift some of the burdens from our military men and women serving so bravely in combat zones and contingency operations around the world. I am committee to improving the quality of life for our military servicemembers and their families, and I am proud to introduce the Armed Forces Filing Fairness Act of 2002, which will help make life just a little easier for our men and women in uniform.

By Mr. ALLARD:

S. 2786. A bill to provide a cost-sharing requirement for the construction of

the Arkansas Valley Conduit in the State of Colorado; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, water is a precious resource that nourishes our civilization and cultivates our society. Yet finding clean, inexpensive water in Southeastern Colorado, can be difficult. That is why today I am introducing legislation that paves the way for expedited construction of the Arkansas Valley Conduit, a pipeline that will provide the small, financially strapped towns and water agencies along the Arkansas River with safe, clean, affordable water. By providing for the Federal Government to pay for 75 percent of the construction costs of the Conduit, we can put Southeastern Coloradans in the position of being able to provide themselves with the water that they so vitally need.

The Conduit was originally authorized with the enactment of the Fryingpan-Arkansas Project in 1962. Due to Southeastern Colorado's depressed economic status and the fact that the authorizing statute lacked a cost share formula, the Conduit was never built. Until recently, the region has been fortunate enough to enjoy an economical and safe alternative to pipeline-transportation of Project Water: the Arkansas River. Sadly, the water quality in the Arkansas has seriously declined. At the same time, the federal government has continued to strengthen its water quality standards while providing no assistance to water municipalities struggling to meet those standards. In order to comply with these standards. In order to comply with these standards, the region's municipalities have begun exploring options for water treatment, some of which are estimated to cost between $20,000,000 and $40,000,000. Taken together, the municipalities alone are facing potential expenditures of $320,000,000 to $640,000,000, simply to comply with federally mandated water quality standards. As you know, this is not a financially feasible option for small farming communities.

The local sponsors of the project have initiated, and are nearing the completion of, an independently funded feasibility study of the Conduit. They have developed a coalition of support from water users in Southeastern Colorado and are exploring options for financing their 25 percent share of the costs.

Because forty years have passed between the enactment of the authorizing statute and the current efforts to build the Conduit, the Bureau of Reclamation has stated that a Reevaluation Statement, rather than a Reconnaissance Study, is the next appropriate action. I would like to see the Bureau begin the Reevaluation Statement as quickly as possible. To help make this happen, I have made a request for an additional $300,000 in the Bureau's General Investigations account to be used to prepare the Statement and to begin work in earnest on the Conduit.

I am pleased to learn that the Appropriations Committee is currently working to include the funding for the Reevaluation Statement, the Conduit's next step.

With the help of my colleagues, the promise made by Congress forty years ago to the people of Southeastern Colorado, will finally become a reality. Thank you. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2786

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

SECTION 1. COST-SHARING REQUIREMENT FOR THE ARKANSAS VALLEY CONDUIT IN THE STATE OF COLORADO.

(a) IN GENERAL.—Section 7 of Public Law 87–590 (76 Stat. 393) is amended—

(1) by striking ''SEC. 7.'' and inserting the following: ''SEC. 7. AUTHORIZATION OF APPROPRIATIONS.'';

(2) in the first sentence, by striking ''There is hereby authorized'' and inserting the following:

''(a) CONSTRUCTION.—There is authorized'';

(3) in the second sentence, by striking ''There are also'' and inserting the following:

''(b) OPERATIONS AND MAINTENANCE.—There are''; and

(4) by adding at the end the following:

''(c) ARKANSAS VALLEY CONDUIT.—

''(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to pay the Federal share of the costs of constructing the Arkansas Valley Conduit in accordance with subsection (a) of the first section.

''(2) NON-FEDERAL SHARE.—

''(A) IN GENERAL.—The non-Federal share of the total costs of construction (including design and engineering costs) of the Arkansas Valley Conduit shall be not more than 25 percent.

''(B) FORM.—Up to 100 percent of the non-Federal share may—

''(i) be in the form of in-kind contributions; or

''(ii) consist of amounts made available under any other Federal law.''.

(b) APPLICABILITY.—The amendments made by subsection (a) apply to any costs of constructing the Arkansas Valley Conduit incurred during fiscal year 2002 or any subsequent fiscal year.

By Mr. DASCHLE:

S. 2788. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota; to the Committee on Energy and Natural Resources.

Mr. DASCHLE. Mr. President, today I am introducing the Wind Cave National Park Boundary Revision Act.

Wind Cave National Park, located in southwestern South Dakota, is one of the Park System's precious natural treasures and one of the Nation's first national parks. The cave itself, after which the park is named, is one of the world's oldest, longest and most complex cave systems, with more than 103 miles of mapped tunnels. The cave is well known for its exceptional display of boxwork, a rare, honeycomb-shaped formation that protrudes from the cave's ceilings and walls. While the cave is the focal point of the park, the land above the cave is equally impressive, with 28,000 acres of rolling meadows, majestic forests, creeks, and streams. As one of the few remaining mixed-grass prairie ecosystems in the country, the park is home to abundant wildlife, such as bison, deer, elk and birds, and is a National Game Preserve.

The Wind Cave National Park Boundary Revision Act will help expand the park by approximately 20 percent in the southern ''keyhole'' region. This land currently is owned by a ranching family that wants to see it protected from development and preserved for future generations. The land is a natural extension of the park, and boasts the mixed-grass prairie and ponderosa pine forests found in the rest of the park, including a dramatic river canyon. The addition of this land will enhance recreation for hikers who come for the solitude of the park's back country. It will also protect archaeological sites, such as a buffalo jump over which early Native Americans once drove the bison they hunted, and improve fire management.

This plan to expand the park has strong, but not universal, support in the surrounding community, whose views recently were expressed during a 60-day public comment period on the proposal. Most South Dakotans recognize the value in expanding the park, not only to encourage additional tourism in the Black Hills, but to permanently protect these extraordinary lands for future generations of Americans to enjoy. Understandably, however, some are legitimately concerned about the potential loss of hunting opportunities and local tax revenue.

Governor Janklow has expressed his conditional support for the park expansion, stating that there must be no reduction in the amount of lands with public access that currently can be hunted, that there must be no loss of tax revenue to the county from the expansion, and that chronic wasting disease issues must be dealt with effectively. There are reasonable conditions that should be met as this process moves forward.

The legislation I am introducing today protects hunting opportunities for sportsmen by excluding 880 acres of School and Public Lands property from the expansion. In addition, Wind Cave National Park and the Trust for Public Lands are working with interested parties to find a way to offset the loss of local county tax revenues. Finally, I understand that the South Dakota Game, Fish, and Parks Department has reached an agreement with Wind Cave officials to expand research into chronic wasting disease, which will benefit wildlife populations nationwide. I am satisfied that the legitimate concerns about the potential expansion have been effectively addressed and today am moving forward to begin the legislative phase of this process.

In conclusion, Wind Cave National Park has been a valued American

treasure for nearly 100 years. We have an opportunity with this legislation to expand the park and enhance its value to the public so that visitors will enjoy it even more during the next 100 years. It is my hope that my colleagues will support this expansion of the park and pass the legislation in the near future.

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

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

S. 2788

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 ''Wind Cave National Park Boundary Revision Act of 2002''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term ''map'' means the map entitled ''Wind Cave National Park Boundary Revision'', numbered 108/80,030, and dated June 2002.

(2) PARK.—The term ''Park'' means the Wind Cave National Park in the State.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) STATE.—The term ''State'' means the State of South Dakota.

SEC. 3. LAND ACQUISITION.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may acquire the land or interest in land described in subsection (b)(1) for addition to the Park.

(2) MEANS.—An acquisition of land under paragraph (1) may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

(b) BOUNDARY.—

(1) MAP AND ACREAGE.—The land referred to in subsection (a)(1) shall consist of approximately 5,675 acres, as generally depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) REVISION.—The boundary of the Park shall be adjusted to reflect the acquisition of land under subsection (a)(1).

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer any land acquired under section 3(a)(1) as part of the Park in accordance with laws (including regulations) applicable to the Park.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—The Secretary shall transfer from the Director of the Bureau of Land Management to the Director of the National Park Service administrative jurisdiction over the land described in paragraph (2).

(2) MAP AND ACREAGE.—The land referred to in paragraph (1) consists of the approximately 80 acres of land identified on the map as ''Bureau of Land Management land''.

SEC. 5. GRAZING.

(a) GRAZING PERMITTED.—Subject to any permits or leases in existence as of the date of acquisition, the Secretary may permit the continuation of livestock grazing on land acquired under section 3(a)(1).

(b) LIMITATION.—Grazing under subsection (a) shall be at not more than the level existing on the date on which the land is acquired under section 3(a)(1).

(c) PURCHASE OF PERMIT OR LEASE.—The Secretary may purchase the outstanding portion of a grazing permit or lease on any land acquired under section 3(a)(1).

(d) TERMINATION OF LEASES OR PERMITS.—The Secretary may accept the voluntary termination of a permit or lease for grazing on any acquired land.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4316. Mr. ROCKEFELLER (for himself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH of Oregon, Mrs. LINCOLN, Mr. DURBIN, Mr. CORZINE, Mr. HARKIN, Mr. MURKOWSKI, Mr. HUTCHINSON, Mrs. CLINTON, Mr. TORRICELLI, Mr. WELLSTONE, Mr. SCHUMER, Ms. MIKULSKI, Mr. KERRY, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. SNOWE, Mr. ENZI, Mr. JOHNSON, Mr. SARBANES, Mr. DAYTON, Mr. LEAHY, Ms. CANTWELL, Mr. BAYH, Mr. KENNEDY, Mr. JEFFORDS, Mr. CLELAND, Mr. MILLER, and Mr. COCHRAN) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

SA 4317. Mrs. CLINTON (for herself, Mr. DEWINE, Mr. DODD, and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill S. 812, supra; which was ordered to lie on the table.

SA 4318. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 812, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4316. Mr. ROCKEFELLER (for himself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH of Oregon, Mrs. LINCOLN, Mr. DURBIN, Mr. CORZINE, Mr. HARKIN Mr. MURKOWSKI, Mr. HUTCHINSON, Mrs. CLINTON, Mr. TORRICELLI, Mr. WELLSTONE, Mr. SCHUMER, Ms. MIKULSKI, Mr. KERRY, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. SNOWE, Mr. ENZI, Mr. JOHNSON, Mr. SARBANES, Mr. DAYTON, Mr. LEAHY, Ms. CANTWELL, Mr. BAYH, Mr. KENNEDY, Mr. JEFFORDS, Mr. CLELAND, Mr. MILLER, and Mr. COCHRAN) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) to amend the Federal Food, Drug, and Co:

At the appropriate place, insert the following:

SEC. ___. TEMPORARY STATE FISCAL RELIEF.

(a) TEMPORARY INCREASE OF MEDICAID FMAP.—

(1) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2002, before the application of this subsection.

(2) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2003, before the application of this subsection.

(3) GENERAL 1.35 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002 AND FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraphs (5) and (6), for each State for the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, the FMAP (taking into account the application of paragraphs (1) and (2)) shall be increased by 1.35 percentage points.

(4) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to paragraph (6), with respect to the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 2.7 percent of such amounts.

(5) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this subsection shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(A) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(B) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(6) STATE ELIGIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a State is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after January 1, 2002, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(7) DEFINITIONS.—In this subsection:

(A) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(B) STATE.—The term ''State'' has the meaning given such term for purposes of

title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(8) REPEAL.—Effective as of October 1, 2003, this subsection is repealed.

(b) ADDITIONAL TEMPORARY STATE FISCAL RELIEF.—

(1) IN GENERAL.—Title XX of the Social Security Act (42 U.S.C. 1397–1397f) is amended by adding at the end the following:

"SEC. 2008. ADDITIONAL TEMPORARY GRANTS FOR STATE FISCAL RELIEF.

''(a) IN GENERAL.—For the purpose of providing State fiscal relief allotments to States under this section, there are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, $3,000,000,000. Such funds shall be available for obligation by the State through June 30, 2004, and for expenditure by the State through September 30, 2004. This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under this section.

''(b) ALLOTMENT.—Funds appropriated under subsection (a) shall be allotted by the Secretary among the States in accordance with the following table:

"State	Allotment (in dollars)
Alabama	$33,918,100
Alaska	$8,488,200
Amer. Samoa	$88,600
Arizona	$47,601,600
Arkansas	$27,941,800
California	$314,653,900
Colorado	$27,906,200
Connecticut	$41,551,200
Delaware	$8,306,000
District of Columbia	$12,374,400
Florida	$128,271,100
Georgia	$69,106,600
Guam	$135,900
Hawaii	$9,914,700
Idaho	$10,293,600
Illinois	$102,577,900
Indiana	$50,659,800
Iowa	$27,799,700
Kansas	$21,414,300
Kentucky	$44,508,400
Louisiana	$50,974,000
Maine	$17,841,100
Maryland	$44,228,800
Massachusetts	$100,770,700
Michigan	$91,196,800
Minnesota	$57,515,400
Mississippi	$35,978,500
Missouri	$62,189,600
Montana	$8,242,000
Nebraska	$16,671,600
Nevada	$10,979,700
New Hampshire	$10,549,400
New Jersey	$87,577,300
New Mexico	$21,807,600
New York	$461,401,900
North Carolina	$79,538,300
North Dakota	$5,716,900
N. Mariana Islands	$50,000
Ohio	$116,367,800
Oklahoma	$30,941,800
Oregon	$34,327,200
Pennsylvania	$159,089,700
Puerto Rico	$3,991,900
Rhode Island	$16,594,100
South Carolina	$38,238,000
South Dakota	$6,293,700
Tennessee	$81,120,000
Texas	$159,779,800
Utah	$12,551,700
Vermont	$8,003,800
Virgin Islands	$128,800
Virginia	$44,288,300
Washington	$66,662,200
West Virginia	$19,884,400
Wisconsin	$47,218,900
Wyoming	$3,776,400
Total	**$3,000,000,000**

''(c) USE OF FUNDS.—Funds appropriated under this section may be used by a State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

''(d) PAYMENT TO STATES.—Not later than 30 days after amounts are appropriated under subsection (a), in addition to any payment made under section 2002 or 2007, the Secretary shall make a lump sum payment to a State of the total amount of the allotment for the State as specified in subsection (b).

''(e) DEFINITION.—For purposes of this section, the term 'State' means the 50 States, the District of Columbia, and the territories contained in the list under subsection (b).''.

(2) REPEAL.—Effective as of January 1, 2005, section 2008 of the Social Security Act, as added by paragraph (1), is repealed.

(c) EMERGENCY DESIGNATION.—The entire amount necessary to carry out this section is designated by Congress as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(e)).

SA 4317. Mrs. CLINTON (for herself, Mr. DEWINE, Mr. DODD, and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. PEDIATRIC LABELING OF DRUGS AND BIOLOGICAL PRODUCTS

(a) IN GENERAL.—Subchapter A of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505A the following:

"SEC. 505B. PEDIATRIC LABELING OF DRUGS AND BIOLOGICAL PRODUCTS.

''(a) NEW DRUGS AND BIOLOGICAL PRODUCTS.—

''(1) IN GENERAL.—A person that submits an application (or supplement to an application)—

''(A) under section 505 for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration; or

''(B) under section 351 of the Public Health Service Act (42 U.S.C. 262) for a biological product license;

shall submit with the application the assessments described in paragraph (2).

''(2) ASSESSMENTS.—

''(A) IN GENERAL.—The assessments referred to in paragraph (1) shall contain data, gathered using appropriate formulations, that are adequate—

''(i) to assess the safety and effectiveness of the drug, or the biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), for the claimed indications in all relevant pediatric subpopulations; and

''(ii) to support dosing and administration for each pediatric subpopulation for which the drug, or the biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), is safe and effective.

''(B) SIMILAR COURSE OF DISEASE OR SIMILAR EFFECT OF DRUG OR BIOLOGICAL PRODUCT.—If the course of the disease and the effects of the drug are sufficiently similar in adults and pediatric patients, the Secretary may conclude that pediatric effectiveness can be extrapolated from adequate and well-controlled studies in adults, usually supplemented with other information obtained in pediatric patients, such as pharmacokinetic studies.

''(3) DEFERRAL.—On the initiative of the Secretary or at the request of the applicant, the Secretary may defer submission of some or all assessments required under paragraph (1) until a specified date after approval of the drug or issuance of the license for a biological product if—

''(A) the Secretary finds that—

''(i) the drug or biological product is ready for approval for use in adults before pediatric studies are complete; or

''(ii) pediatric studies should be delayed until additional safety or effectiveness data have been collected; and

''(B) the applicant submits to the Secretary—

''(i) a certified description of the planned or ongoing studies; and

''(ii) evidence that the studies are being conducted or will be conducted with due diligence.

''(b) MARKETED DRUGS AND BIOLOGICAL PRODUCTS.—After providing notice and an opportunity for written response and a meeting, which may include an advisory committee meeting, the Secretary may by order require the holder of an approved application relating to a drug under section 505 or the holder of a license for a biological product under section 351 of the Public Health Service Act (42 U.S.C. 262) to submit by a specified date the assessments described in subsection (a) if the Secretary finds that—

''(1)(A) the drug or biological product is used for a substantial number of pediatric patients for the labeled indications; and

''(B) the absence of adequate labeling could pose significant risks to pediatric patients; or

''(2)(A) there is reason to believe that the drug or biological product would represent a meaningful therapeutic benefit over existing therapies for pediatric patients for 1 or more of the claimed indications; and

''(B) the absence of adequate labeling could pose significant risks to pediatric patients.

''(c) DELAY IN SUBMISSION OF ASSESSMENTS.—If a person delays the submission of assessments relating to a drug or biological product beyond a date specified in subsection (a) or (b)—

''(1) the drug or biological product—

''(A) shall be deemed to be misbranded;

''(B) shall be subject to action under sections 302 and 304; and

''(C) shall not be subject to action under section 303; and

''(2) the delay shall not be the basis for a proceeding to withdraw approval for a drug under section 505(e) or revoke the license for a biological product under section 351 of the Public Health Service Act (42 U.S.C. 262).

''(d) WAIVERS.—

''(1) FULL WAIVER.—At the request of an applicant, the Secretary shall grant a full waiver, as appropriate, of the requirement to submit assessments under subsection (a) or (b) if—

''(A) necessary studies are impossible or highly impracticable;

''(B) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in all pediatric age groups; or

''(C)(i) the drug or biological product—

''(I) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients; and

''(II) is not likely to be used for a substantial number of pediatric patients; and

''(ii) the absence of adequate labeling would not pose significant risks to pediatric patients.

''(2) PARTIAL WAIVER.—At the request of an applicant, the Secretary shall grant a partial waiver, as appropriate, of the requirement to submit assessments under subsection (a) with respect to a specific pediatric subpopulation if—

''(A) any of the grounds stated in paragraph (1) applies to that subpopulation; or

''(B) the applicant demonstrates that reasonable attempts to produce a pediatric formulation necessary for that subpopulation have failed.

''(3) LABELING REQUIREMENT.—If the Secretary grants a full or partial waiver because there is evidence that a drug or biological product would be ineffective or unsafe in pediatric populations, the information shall be included in the labeling for the drug or biological product.

''(e) MEETINGS.—The Secretary shall meet at appropriate times in the investigational new drug process with the sponsor to discuss background information that the sponsor shall submit on plans and timelines for pediatric studies, or any planned request for waiver or deferral of pediatric studies.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)) is amended in the second sentence—

(A) by striking ''and (F)'' and inserting ''(F)''; and

(B) by striking the period at the end and inserting '', and (G) any assessments required under section 505B.''.

(2) Section 505A(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(h)) is amended—

(A) in the subsection heading, by striking ''REGULATIONS'' and inserting ''PEDIATRIC STUDY REQUIREMENTS''; and

(B) by striking ''pursuant to regulations promulgated by the Secretary'' and inserting ''by a provision of law (including a regulation) other than this section''.

(3) Section 351(a)(2) of the Public Health Service Act (42 U.S.C. 262(a)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

''(B) PEDIATRIC STUDIES.—A person that submits an application for a license under this paragraph shall submit to the Secretary as part of the application any assessments required under section 505B of the Federal Food, Drug, and Cosmetic Act.''.

(c) FINAL RULE.—Except to the extent that the final rule is inconsistent with the amendment made by subsection (a), the final rule promulgating regulations requiring manufacturers to assess the safety and effectiveness of new drugs and biological products in pediatric patients (63 Fed. Reg. 66632 (December 2, 1998)), shall be considered to implement the amendment made by subsection (a).

(d) NO EFFECT ON AUTHORITY.—Section 505B of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)) does not affect whatever existing authority the Secretary of Health and Human Services has to require pediatric assessments regarding the safety and efficacy of drugs and biological products in addition to the assessments required under that section. The authority, if any, of the Secretary of Health and Human Services regarding specific populations other than the pediatric population shall be exercised in accordance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act.

SA 4318. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—ETHICAL PRESCRIPTION DRUG MARKETING ACT OF 2002

SEC. ____1. SHORT TITLE.

This title may be cited as the ''Ethical Prescription Drug Marketing Act of 2002''.

SEC. ____2. PROHIBITION ON OFFERING OR PROVIDING ITEMS OR SERVICES FROM DRUG MANUFACTURERS TO HEALTH CARE PROFESSIONALS.

Section 503 of the Federal Food, Drug, and Cosmetics Act (21 U.S.C. 353) is amended by adding at the end the following:

''(h)(1) A drug manufacturer shall not offer or provide any item or service to a health care professional in a manner or on a condition that would interfere with the independence of the health care professional's prescribing practices.

''(2)(A) A drug manufacturer shall not offer or provide any money (including cash or a cash equivalent) to a health care professional, except as compensation under an arrangement for bona fide services, such as services as a consultant, as a participant in speaker training meetings, or as a researcher.

''(B) A drug manufacturer shall not offer or provide any non-monetary item or service to a health care professional intended primarily for the personal benefit of the health care professional.

''(C) A drug manufacturer shall not offer or provide any non-monetary item or service, of substantial value, to a health care professional, except that a drug manufacturer may distribute a drug sample in compliance with subsection (d).

''(3) Each drug manufacturer shall be subject to a civil monetary penalty of not more than $10,000 for each violation of this subsection. Each unlawful offer or provision shall constitute a separate violation. The provisions of paragraphs (3), (4), and (5) of section 303(g) shall apply to such a violation in the same manner as such provisions apply to a violation of a requirement of this Act that relates to devices.

''(4)(A) For purposes of this subsection, an arrangement between a drug manufacturer and a health care professional for the services of the health care professional shall be considered to be an arrangement for bona fide services if, of the factors described in subparagraph (B), the factors that are relevant to the arrangement are present.

''(B) The factors referred to in subparagraph (A) are—

''(i) a legitimate need for the services, identified in advance of requesting the services and entering into the arrangement;

''(ii) a written contract specifying the nature of the services and the basis for payment for those services;

''(iii) selection of the health care professional to provide the services, based on criteria directly related to the identified need, and conducted by a person with the expertise necessary to evaluate whether health care professionals meet the criteria;

''(iv) a number of health care professionals retained under the arrangement that is not greater than the number reasonably necessary to address the identified need;

''(v) maintenance of appropriate records concerning, and appropriate use of the services of, the health care professional; and

''(vi) a venue and circumstances for any meeting that is conducive to providing the services, with any social or entertainment events at the meeting clearly subordinate to the provision of the services.

''(5) In this subsection:

''(A) The term 'drug manufacturer' means—

''(i) a person who manufactures a prescription drug approved under section 505 or a biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262); or

''(ii) a person who is licensed by a person described in clause (i) to distribute or market such a drug or biological product.

''(B) The term 'health care professional' means a physician, or other individual who is a provider of health care, who is licensed under the law of a State to prescribe drugs.

''(C) The term 'substantial value' means $100 or more.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Wednesday, July 24, 2002, at 3 p.m. in SD–366.

The purpose of the hearing is to examine issues related to the need for and barriers to development of electricity infrastructure. The hearing will focus on DOE's National Transmission Grid Study and on information developed in a series of technical conferences held by the Federal Energy Regulatory Commission starting in November 2001.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS COMMITTEE ON FOREIGN RELATION

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet jointly with the Committee on Foreign Relations on Wednesday, July 24, 2002, at 10:30 a.m. to conduct a hearing to review environmental treaties implementation. The hearing will be held in SD–406.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 24 2002 at 10:30 a.m. to hold a hearing on Environmental Treaties.

Agenda

Witnesses

Panel I: Mr. John F. Turner, Assistant Secretary for the Bureau of Oceans and International Environment and Scientific Affairs, U.S. Department of State, Washington, DC; Mr. James Connaughton, Chair, White House Council on Environmental Quality, Washington, D.C.

Panel II: Mr. Maurice Strong, Chairman, Earth Council Institute Canada, Toronto, Ontario, Canada; Professor John C. Dernbach, Widener University Law School, Harrisburg, PA; Mr. Christopher C. Horner, Counsel, Competitive Enterprise Institute, Washington, D.C.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, at 2:30 p.m. to hold a nomination hearing.

Agenda

Nominees:

Ms. Kristie A. Kenney, of Maryland, to be Ambassador to the Republic of Ecuador.

Mr. Larry L. Palmer, of Georgia, to be Ambassador to the Republic of Honduras.

Mrs. Barbara C. Moore, of Maryland, to be Ambassador to the Republic of Nicaragua.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, July 24, 2002, at 9:30 a.m. for a business meeting to consider pending business.

Agenda

1. To authorize withdrawal of the Committee amendments and offering of a floor amendment in the nature of a substitute to the National Homeland Security and Combating Terrorism Act of 2002 (S. 2452) which the Committee ordered reported on May 22, 2002.

2. Nominations:

(a) James ''Jeb'' E. Boasberg to be an Associate Judge of the Superior Court of the District of Columbia.

(b) Michael D. Brown to be Deputy Director of the Federal Emergency Management Agency.

(c) The Honorable Mark W. Everson to be Deputy Director for Management, Office of Management and Budget.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 24, 2002, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 1344, a bill to Encourage Training to Native Americans Interested in Commercial Vehicle Driving Careers.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, beginning at 9:00 a.m. in room 428A of the Russell Senate Office Building to markup pending legislation.

Agenda

S. 2753 Small and Disadvantaged Business Ombudsman for Procurement;

S. 2335 Office of Native American Affairs at SBA;

S. 2734 Non-Farm Drought Relief;

S. 1994 Small Business Federal Contracts;

HR 2666 Vocational and Technical Entrepreneurship Development Program;

S. 2483 Pilot Program To Provide Regulatory Compliance Assistance To Small Business;

S. 2466 Contract Consolidation Requirements.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, for a hearing on ''Mental Health Care: Can VA Still Deliver.''

The hearing will take place in SR–418 of the Russell Senate Office Building at 9:30 a.m.

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

SUBCOMMITTEE ON CRIME AND DRUGS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Crime and Drugs be authorized to meet to conduct a hearing on ''Ensuring Corporate Responsibility: Using Criminal Sanctions to Deter Wrongdoing,'' on Wednesday, July 24, 2002, at 2:30 p.m. in SD226.

Tentative Witness List

The Honorable G. William Miller, Former Secretary of the U.S. Treasury, Former Chairman of the Federal Reserve Board, Chairman, G. William Miller & Co.

The Honorable Roderick Hills, Former Chairman of the U.S. Securities and Exchange Commission, Founder, Law Firms of Hills & Stern, Chairman, Hills Enterprises Ltd.

The Honorable J. Carter Beese, Jr., Former Commissioner of the U.S. Securities and Exchange Commission, Senior Advisor and Chairman, International Financial Markets Project of the Center for Strategic and International Studies.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, at 2:30 p.m. to conduct an oversight hearing on ''HUD's Management Challenges.''

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space of the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 24, 2002, at 2:30 p.m. on Women in Science and Technology.

The PRESIDING OFFICER. Without objection it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. DAYTON. Madam President, I ask unanimous consent that my staff person, Krystle J. Klema, be able to be on the floor for my colloquy with Senator WELLSTONE.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 107–171, announces the appointment of the following individuals to serve as members of the Board of Trustees of the Congressional Hunger Fellows Program: the Senator from Iowa (Mr. HARKIN); the Representative from North Carolina (Mrs. CLAYTON).

YANKTON SIOUX TRIBE AND SANTEE SIOUX TRIBE EQUITABLE COMPENSATION ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 507, S. 434.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 434) to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with amendments, as follows:

[Omit the part in black brackets and insert the part printed in italic.]

S. 434

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 ''Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) by enacting the Act of December 22, 1944, commonly known as the ''Flood Control Act of 1944'' (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the ''Pick-Sloan program'')—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-Sloan program have inundated the fertile, wooded bottom lands along the Missouri River that constituted the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe;

(3) the Fort Randall project (including the Fort Randall Dam and Reservoir) overlies the western boundary of the Yankton Sioux Tribe Indian Reservation;

(4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe;

(5) although the Fort Randall and Gavins Point projects are major components of the Pick-Sloan program, and contribute to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped;

(6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation proceedings;

(7) the Federal Government did not give the Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensation for direct damages from the Pick-Sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of those Indian tribes such an opportunity;

(8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensation for the taking of productive agricultural Indian lands through the condemnation referred to in paragraph (6);

(9) the settlement agreement that the United States entered into with the Yankton Sioux Tribe and the Santee Sioux Tribe to provide compensation for the taking by condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and

(10) in addition to the financial compensation provided under the settlement agreements referred to in paragraph (9)—

(A) the Yankton Sioux Tribe should receive an aggregate amount equal to $23,023,743 for the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to $4,789,010 for the loss value of 593.10 acres of Indian land located near the Santee village.

SEC. 3. DEFINITIONS.

In this Act:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) SANTEE SIOUX TRIBE.—The term ''Santee Sioux Tribe'' means the Santee Sioux Tribe of Nebraska.

(3) YANKTON SIOUX TRIBE.—The term ''Yankton Sioux Tribe'' means the Yankton Sioux Tribe of South Dakota.

SEC. 4. YANKTON SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Yankton Sioux Tribe Development Trust Fund'' (referred to in this section as the ''Fund''). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $23,023,743; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO YANKTON SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Yankton Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Yankton Sioux Tribe has adopted a tribal plan under section 6.

(C) USE OF PAYMENTS BY YANKTON SIOUX TRIBE.—The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 6.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 5. SANTEE SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Santee Sioux Tribe Development Trust Fund'' (referred to in this section as the ''Fund''). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $4,789,010; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO SANTEE SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Santee Sioux Tribe has adopted a tribal plan under section 6.

(C) USE OF PAYMENTS BY SANTEE SIOUX TRIBE.—The Santee Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 6.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 6. TRIBAL PLANS.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the tribal council of each of the Yankton Sioux and Santee Sioux Tribes shall prepare a plan for the use of the payments to the tribe under section 4(d) or 5(d) (referred to in this subsection as a ''tribal plan'').

(b) CONTENTS OF TRIBAL PLAN.—Each tribal plan shall provide for the manner in which the tribe covered under the tribal plan shall expend payments to the tribe under [subsection (d)] *section 4(d) or 5(d)* to promote—

(1) economic development;

(2) infrastructure development;

(3) the educational, health, recreational, and social welfare objectives of the tribe and its members; or

(4) any combination of the activities described in paragraphs (1), (2), and (3).

(c) TRIBAL PLAN REVIEW AND REVISION.—

(1) IN GENERAL.—Each tribal council referred to in subsection (a) shall make available for review and comment by the members of the tribe a copy of the tribal plan for the Indian tribe before the tribal plan becomes final, in accordance with procedures established by the tribal council.

(2) UPDATING OF TRIBAL PLAN.—Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

(3) CONSULTATION.—In preparing the tribal plan and any revisions to update the plan, each tribal council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(4) AUDIT.—

(A) IN GENERAL.—The activities of the tribes in carrying out the tribal plans shall be audited as part of the annual single-agency audit that the tribes are required to prepare pursuant to the Office of Management and Budget circular numbered A–133.

(B) DETERMINATION BY AUDITORS.—The auditors that conduct the audit described in subparagraph (A) shall—

(i) determine whether funds received by each tribe under this section for the period covered by the audits were expended to carry out the respective tribal plans in a manner consistent with this section; and

(ii) include in the written findings of the audits the determinations made under clause (i).

(C) INCLUSION OF FINDINGS WITH PUBLICATION OF PROCEEDINGS OF TRIBAL COUNCIL.—A copy of the written findings of the audits described in subparagraph (A) shall be inserted in the published minutes of each tribal council's proceedings for the session at which the audit is presented to the tribal councils.

(d) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this Act may be distributed to any member of the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska on a per capita basis.

SEC. 7. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

(a) IN GENERAL.—No payment made to the Yankton Sioux Tribe or Santee Sioux Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Yankton Sioux Tribe or Santee Sioux Tribe is otherwise entitled because of the status of the tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of a tribe under paragraph (1) is entitled because of the status of the individual as a member of the tribe.

(b) EXEMPTIONS FROM TAXATION.—No payment made pursuant to this Act shall be subject to any Federal or State income tax.

(c) POWER RATES.—No payment made pursuant to this Act shall affect Pick-Sloan Missouri River Basin power rates.

SEC. 8. STATUTORY CONSTRUCTION.

Nothing in this Act may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this Act, any treaty right that is in effect on the date of enactment of this Act, *or* any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act, including such sums as may be necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 4 and the Santee Sioux Tribe [of Nebraska] Development Trust Fund under section 5.

SEC. 10. EXTINGUISHMENT OF CLAIMS.

Upon the deposit of funds under sections 4(b) and 5(b), all monetary claims that the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska has or may have against the United States for loss of value or use of land related to lands described in section 2(a)(10) resulting from the Fort Randall and Gavins Point projects of the Pick-Sloan Missouri River Basin program shall be extinguished.

Mr. REID. Mr. President, I ask unanimous consent that the committee amendments be agreed to; that the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

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

The committee amendments were agreed to.

The bill (S. 434), as amended, was read the third time and passed.

VICKSBURG NATIONAL MILITARY PARK BOUNDARY MODIFICATION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 546, S. 1175.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1175) to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment, as follows:

Strike out all after the enacting clause and insert the part printed in italic.

S. 1175

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 ''Vicksburg National Military Park Boundary Modification Act of 2001''.

[SEC. 2. MODIFICATION OF BOUNDARY.

[The boundary of Vicksburg National Military Park is modified to include the property known as Pemberton's Headquarters, as generally depicted on the map entitled ''Boundary Map, Pemberton's Headquarters at Vicksburg National Military Park'', numbered 80,015, and dated July, 2001. The map shall be on file in the appropriate offices of the National Park Service of the Department of the Interior.

[SEC. 3. ACQUISITION OF PROPERTY.

[The Secretary of the Interior may acquire the property described in section 2 from a willing seller or donee by donation, purchase with donated or appropriated funds, or exchange.

[SEC. 4. ADMINISTRATION.

[Upon acquiring the property described in Section 2, the Secretary of the Interior shall administer the property as part of Vicksburg National Military Park in accordance with applicable laws and regulations.

[SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as may be necessary to carry out this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Vicksburg National Military Park Boundary Modification Act of 2002''.

SEC. 2. BOUNDARY MODIFICATION.

The boundary of Vicksburg National Military Park is modified to include the property known as Pemberton's Headquarters, as generally depicted on the map entitled ''Boundary Map, Pemberton's Headquarters at Vicksburg National Military Park'', numbered 306/80015A, and dated August, 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

SEC. 3. ACQUISITION OF PROPERTY.

(a) PEMBERTON'S HEADQUARTERS.—The Secretary of the Interior is authorized to acquire the properties described in section 2 and 3(b) by purchase, donation, or exchange, except that each property may only be acquired with the consent of the owner thereof.

(b) PARKING.—The Secretary is also authorized to acquire not more than one acre of land, or interest therein, adjacent to or near Pemberton's Headquarters for the purpose of providing parking and other facilities related to the operation of Pemberton's Headquarters. Upon the acquisition of the property referenced in this subsection, the Secretary add it to Vicksburg National Military Park and shall modify the boundaries of the park to reflect its inclusion.

SEC. 4. ADMINISTRATION.

The Secretary shall administer any properties acquired under this Act as part of the Vicksburg National Military Park in accordance with applicable laws and regulations.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. REID. Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to; that the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1175), as amended, was read the third time and passed.

HONORING CORINNE ''LINDY'' CLAIBORNE BOGGS ON 25TH ANNIVERSARY OF FOUNDING OF CONGRESSIONAL WOMEN'S CAUCUS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to H. Con. Res. 439 just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 439) honoring Corinne ''Lindy'' Claiborne Boggs on the occasion of the 25th anniversary of the founding of the Congressional Women's Caucus.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Ms. LANDRIEU. Mr. President, I rise today to express my admiration and gratitude to a woman who served the State of Louisiana and indeed the entire Nation with devotion and sense of unwavering dedication. Throughout her life, she answered every call to service made to her.

Lindy came to Washington in 1940 with her husband, the late Hale Boggs and following his tragic death in 1972, she became the first woman to elected to the House of Representatives from the State of Louisiana. She continued

her service to Congress until 1990, when she retired to New Orleans. In Congress she sat on the Appropriations Committee and the Select Committee on Children, Youth, and Families, spearheading legislation on issues ranging from civil rights to pay equity for women. She chaired the committees on the Bicentennials of the American Constitution in 1987 and the House of Representatives in 1989. In 1997, President Clinton asked her to assist her country once again, this time as the American ambassador to the Vatican.

But the reasons to honor Lindy go far beyond a recitation of her resume, distinguished as it may be. Lindy Boggs continues to be a role model for those of us in Congress and thousands of young women across this country who aspire to public service. She used her Southern charm and keen political mind to become one of the most formidable forces in the U.S. House of Representatives. She served as a mentor and teacher to me as well as the Congresswomen that followed her. She not only taught them the rules and expectations of Members of Congress, she taught us how to be a strong, independent women.

Lindy is the founder of the Congressional Women's Caucus, a legislative body that has done so much in its 25-year history. Twenty-five years ago, very few women had served in the Senate, and today we have 13. Thirteen women, and that number is sure to grow. As women, we champion the rights of women everywhere from Afghanistan to China and even here at home. We are a force to be reckoned with, and Lindy is our leader.

What is most impressive about Lindy is the long list of firsts that accompany her biography. She was the first female Representative elected from Louisiana, the first women to chair the National Democratic Convention, the first women to sit on the Board of Regents of the Smithsonian Institution and the first woman to serve as ambassador to the Holy See.

She continues to be my mentor and even more, my friend. It is an honor to join the entire Louisiana delegation and I am sure women in public service everywhere to honor this very special Louisiana and American, Lindy Boggs.

Mr. REID. I ask unanimous consent that the concurrent resolution and preamble be agreed to and the motion to reconsider be laid upon the table, without intervening action or debate.

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

EXECUTIVE CALENDAR

NOMINATION OF JULIA SMITH GIBBONS, OF TENNESSEE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

Mr. REID. Mr. President, I move that the Senate proceed to Executive Session to consider Calendar No. 810, Julia Smith Gibbons, to be United States Circuit Judge.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

CLOTURE MOTION

Mr. REID. 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 assistant 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, hereby move to bring to a close the debate on Executive Calendar No. 810, the nomination of Julia Smith Gibbons, of Tennessee, to be U.S. Circuit Judge for the Sixth Circuit.

Harry Reid, Tom Daschle, Charles Schumer, Mitch McConnell, Fred Thompson, Bill Frist, Phil Gramm, Jon Kyl, Charles Grassley, Wayne Allard, Trent Lott, Don Nickles, Larry E. Craig, Craig Thomas, Mike Capo, Jeff Sessions, Pat Roberts, Jim Bunning, John Ensign, Orrin G. Hatch.

Mr. REID. I ask unanimous consent that the live quorum under rule XXII be waived.

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

LEGISLATIVE SESSION

Mr. REID. I ask unanimous consent that the Senate return to legislative session.

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

ORDERS FOR THURSDAY, JULY 25, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, July 25; 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 the Senate be in 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 of the time under the control of the Republican leader or his designee and the second half of the time under the control of the Democratic leader or his designee; that at 10:30 a.m., the Senate resume consideration of S. 812.

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

Mr. REID. Mr. President, I apologize to the Presiding Officer. I indicated we would be finished by 7 p.m. and we missed that by 35 minutes.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:33 p.m., adjourned until Thursday, July 25, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 24, 2002:

BROADCASTING BOARD OF GOVERNORS

JOAQUIN F. BLAYA, OF FLORIDA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2002, VICE CARL SPIELVOGEL, RESIGNED.

JOAQUIN F. BLAYA, OF FLORIDA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2005. (REAPPOINTMENT)

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

PEGGY GOLDWATER-CLAY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING JUNE 5, 2006. (REAPPOINTMENT)

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

JUANITA ALICIA VASQUEZ-GARDNER, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2003, VICE STEVEN L. ZINTER, TERM EXPIRED.

DEPARTMENT OF JUSTICE

ROBERT MAYNARD GRUBBS, OF MICHIGAN, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF MICHIGAN FOR THE TERM OF FOUR YEARS, VICE JAMES DOUGLAS, JR., TERM EXPIRED.

JOHNNY MACK BROWN, OF SOUTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF SOUTH CAROLINA FOR THE TERM OF FOUR YEARS, VICE ISRAEL BROOKS, JR., TERM EXPIRED.

DENNY WADE KING, OF TENNESSEE, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF FOUR YEARS, VICE EDWARD SCOTT BLAIR, TERM EXPIRED.

EXTENSIONS OF REMARKS

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 296, H.R. 3482, the Cyber Security Enhancement Act of 2002 . Had I been present I would have voted, ''yea.''

I was also unavoidably detained for rollcall No. 297, H.R. 4755, the Clarence Miller Post Office Designation Act. Had I been present I would have voted, ''yea.''

I was also unavoidably detained for rollcall No. 298, H.R. 3479, the National Aviation Capacity Expansion Act. Had I been present I would have voted, ''yea.''

I was also unavoidably detained for rollcall No. 299, H.R. 5118, the Corporate Fraud Accountability Act of 2001. Had I been present I would have voted, ''yea.''

I was also unavoidably detained for rollcall No. 300, H. Res. 482, Honoring Ted Williams. Had I been present I would have voted, ''yea.''

I was also unavoidably detained for rollcall No. 301, H. Res. 452, Congratulating the Detroit Red Wings. Had I been present I would have voted, ''yea.''

I was also unavoidably detained for rollcall No. 302, 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. Had I been present I would have voted, ''yea.''

I was also unavoidably detained for rollcall No. 303, H.R. 4866, the Fed Up Initiative Technical Amendments. Had I been present I would have voted, ''yea.''

I was also unavoidably detained for rollcall No. 304, H. Con. Res. 395, celebrating the 50th anniversary of the constitution of the Commonwealth of Puerto Rico. Had I been present I would have voted, ''yea.''

I was also unavoidably detained for rollcall No. 305, the Toomey of Pennsylvania Amendment to H.R. 5093, Department of Interior Appropriations for Fiscal Year 2003. Had I been present I would have voted, ''no.''

I was also unavoidably detained for rollcall No. 306, On Motion to Limit Debate on H.R. 5093, Department of Interior Appropriations for Fiscal Year 2003. Had I been present I would have voted, ''no.''

I was also unavoidably detained for rollcall No. 307, the Flake of Arizona Amendment to H.R. 5093, Department of Interior Appropriations for Fiscal Year 2003. Had I been present I would have voted, ''no.''

I was also unavoidably detained for rollcall No. 308, on Motion That the Committee Rise. Had I been present I would have voted, ''no.''

LEXINGTON CATHOLIC: BASKETBALL EXCELLENCE

HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. FLETCHER. Mr. Speaker, it is an honor for me to stand here today to recognize basketball excellence at Lexington Catholic High School. Lexington Catholic High School represents a long tradition of Catholic education in the Bluegrass Region, a region where basketball is loved and cherished. The Lexington Catholic basketball tradition has evolved with the academic excellence of the high school, representing not only its students, but oftentimes, Lexington, and the state of Kentucky.

The school was formed in 1951 through the merger of two secondary schools, St. Catherine's Academy, founded in 1823, and Lexington Latin School, founded in 1924, and began their basketball program the same year. After many impressive years as a program in the most competitive area in the country, the Lexington Catholic High School Knights earned a national reputation as a powerhouse. Lexington Catholic is Kentucky's winningest basketball program over the past decade and has won premier tournaments in and out of the state. The program has been ranked as high as No. 3 nationally in USA Today, defeating powerhouses Oak Hill Academy in Virginia, and Chicago's Whitney Young.

However, this year's team accomplished what no other Lexington Catholic team in history had achieved: the Kentucky state title. Through hard work of the players and the determination of long time coach Danny Haney and Principal Sally Stevens, the 2001–2002 Lexington Catholic High School basketball team delivered what students and alumni have been coveting for years.

I would like to recognize the achievements of this year's state champion, the Lexington Catholic Knights, and their perennial successes. The state championship team members include: Chas Allen, Mark Balthropk, Scott Becker, Corey Canter, JD Christman, Adam Cooke, William Graham, Demetrius Green, Chase Hillenmeyer, Wes Lawrence, Mike McGrath, Martiese Morones, Drew Morton, Christian Postel, Ryan Morton, Harrison Morton, David Noble, Ryan Postel, John Rompf, Trey Server, Brian Smith, Joseph Tunde. The coaching staff consists of: Danny Haney, Tommy Huston, Mike Mendenhall II, Mark E. Davidson, John Albaugh, Dave Tramontin, Brandon Salsman, Dan Tilghman, and Mike Mendenhall III.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

SPEECH OF

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

The House in Committee of the Whole House on the State of the Union had under consideration 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;

Ms. PELOSI. Mr. Chairman, I rise in support of the Capps-Rahall-Miller amendment, which would prohibit oil drilling off the coast of Califomia in the coming year.

I commend my colleagues for offering this important amendment, particularly Congresswoman CAPPS, whose vigilance and leadership on this issue never flags.

It is for good reasons that Califomians from all walks of life oppose drilling for oil off our coast.

All it would take is one spill—like the blowout that dumped 4 million gallons of crude oil in the Santa Barbara Channel in 1969—to devastate the marine environment, eliminate tourism along a long stretch of our beautiful coast, and destroy commercial and recreational fishing for years to come.

And for what?

There is little oil available and what is there is of low-quality oil.

It is primarily used to make asphalt.

So let me see if I've got this right: In exchange for hundreds of miles of lovely beaches, thousands of marine mammals, millions of tiny sea creatures, and billions of dollars in tourism and fishing revenues, we would get—asphalt?!

Mr. Chairman, this is a bipartisan issue.

It was President Bush's father, President George H.W. Bush who in 1990 placed a 10-year moratorium on new oil leases off the California coast.

President Clinton renewed that moratorium in 1998.

We in California were happy in May for our friends in Florida when President Bush announced a buyout of federal oil leases off the coast of Florida.

Now we call on the President to do the same for the 36 oil and gas leases threatening California—even though his brother is not the Governor of our state.

I also urge the Bush Administration to drop its opposition to California's activities under the Coastal Zone Management Act.

The Act gives the state the authority to review the potential environmental effects of offshore drilling.

My colleagues, your vote for the Capps-Rahall-Miller amendment is your endorsement of termination of the California offshore leases.

Please vote yes.

PROVIDING FOR CONSIDERATION OF H.R. 5121, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2003

SPEECH OF

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 2002

Mr. CAMP. Mr. Speaker, today I rise to express my support for the fiscal year 2003 Legislative Branch Appropriations bill. This is a responsible bill that will provide necessary resources for the Legislative Branch to carry out its duties in fiscal year 2003.

For the past several years, I have proposed an amendment to the Legislative Appropriations bill that requires all unspent office funds from Members' Representational Allowances be returned to the U.S. Treasury and used for debt reduction. This amendment has received bipartisan support every year and I am pleased the committee has included the proposal in the base bill.

I have been proud to work with my colleagues in the House of Representatives to reduce the national debt and incorporate fiscal responsibility into federal spending. We have reviewed programs and guidelines to make them more effective. Today, we again have the opportunity to reaffirm our promise of fiscal responsibility and deficit reduction to the American people by passing this legislation.

Although we are in a mild recession and a time of economic hardship we must maintain our commitment to pay off the national debt by pushing for more frugal spending. Without the unspent office funds provision, left over funds can be spent on other budget purposes. We must maintain our commitment to end wasteful spending and incorporate fiscal responsibility into this Legislative Branch Appropriations bill.

National security and winning the global campaign on terrorism are our top priorities, but if the government pursues pro-growth policies and maintains spending discipline, we can quickly return the budget to surplus. Now more than ever, every penny must be looked after and accounted for and it is important to reduce spending and cut government waste.

I would like to thank the Chairman LEWIS for his support and for including my unspent office funds provision in H.R. 5121 and I urge all members to support and pass this legislation.

VETERANS HEALTH CARE AND PROCUREMENT IMPROVEMENT ACT OF 2002

SPEECH OF

HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Mr. BUYER. Mr. Speaker, First, I want to thank our Full Committee Chairman Chris Smith and the Health Subcommittee Chairman JERRY MORAN for all their hard work on the bills before us today.

I rise in strong support of H.R. 3645, the ''Veterans Health Care and Procurement Improvement Act of 2002,'' introduced by Representative LANE EVANS. H.R. 3645, as amended, would, among other things, provide for improved management of the purchasing of medical and surgical supply equipment through the Federal Supply Schedule as prescribed by the VA Procurement Task Force. The bill ensures that current and future VA–DOD sharing initiatives would not be impacted by passage of this measure. The legislation also increases health care benefits to certain World War If Filipino veterans; authorizes dental care and services for all former POWs; and provides the authority to allow DOD to purchase medical supplies through VA's revolving supply fund; provides for the renaming of the VA community outpatient clinic in New London, Connecticut by designating it as the John J. McGuirk outpatient clinic.

There is one provision, in particular, that I would like to talk about. Section 7 of the bill provides for greater accountability for VA Research and Education Corporations. This provision is legislation I introduced, H.R. 5084, the ''Department of Veterans Affairs Research Corporations Accountability Act of 2002,'' which was incorporated into H.R. 3645. I introduced H.R. 5084 because we need to insure that the strictest set of accounting measures are in place to make sure we know how funding to these corporations is being administered. It's important to point out that these corporations were established by Congress in 1988 to provide a flexible funding mechanism for approved research being performed at medical centers. Prior to giving VA this authority, any funding received from private sources,, such as pharmaceutical companies, was placed in a General Post fund. However, it became virtually impossible to track the funding stream. There was no way to identify the source of the funding, nor how the money was being spent. The impetus behind establishing the research corporations was to create an accounting mechanism whereby the VA would submit to Congress an annual report on the number and location of corporations established and the amount of contributions made to each such corporation.

Earlier this year, the Subcommittees on Oversight and Investigations and Health held a hearing on VA Research Corporations. We heard from the VA's Assistant Inspector General for Auditing that during the years 1994 through 1997, that his office published three reports which identified the need for stricter accountability and oversight with regard to the administration of funds by the Veterans Health Administration research corporations. For instance, in 1994, the IG audit of a million dollars of the $3.6 million in expenditures spent at three research corporations and identified approximately $625,000 that was spent on salaries of medical residents, staff travel not clearly related to research or administration. Funds were also spent for non-research related conferences, honorary gifts, awards, entertainment, other than non-research expenditures. This is just one example of how money can be misspent when in this case the corporation is not held accountable.

Under current law, the VA nonprofit research corporations are required to provide Congress with an annual report summarizing their activities and accomplishments. These reports have turned out to be nothing more than bare bones financial statements.

The VA Research Corporation Accountability Act amends section 7366 of Title 38 of the United States Code to require each VA corporation to submit a detailed statement that includes the corporation''s operations, activities, and accomplishments during the preceding year to the Secretary of the VA. The report should include the amount of funds received along with the source of funding; and an itemized accounting of all disbursements. Those corporations with funding in excess of $300,000 must obtain an audit of the corporation for that year, corporations with funding totaling less than $300,000 must obtain an audit every three years. These audits must be conducted by an independent auditor and shall be performed in accordance with generally accepted Government auditing standards.

The VA's Inspector General will be required to randomly review audits to determine whether or not they were carried out in accordance with the auditing standards outlined in the legislation. My bill would also extend the life of the corporations by providing authority to establish such corporations until December 31, 2006.

The VA has made tremendous contributions in the field of medical research. I think we all recognize the many accomplishments made by the VA in discovering new drug therapies and developing medical devices that have benefited not only veterans but all Americans. For instance, the VA invented the implantable cardiac pacemaker, developed the nicotine patch, performed the first successful liver transplant, and the development of the first oral vaccine for smallpox.

It is not my intention to prevent VA research from continuing to make great strides as it has in the past, but we must ensure that all research funds are directed with focus and accountability.

I urge my colleagues to vote in favor of H.R. 3645, which was favorably reported by the full VA committee and has widespread support among our nation's veterans.

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. RILEY. Mr. Speaker, I was unavoidably detained for Rollcall No. 324, H. Con. Res. 439, Honoring Lindy Boggs and the Honoring Corinne ''Lindy'' Claiborne Boggs. Had I been present I would have voted yea.

I was also unavoidably detained for Roll Call No. 325, H. Res. 492, Expressing Gratitude for the World Trade Center Cleanup and Recovery Efforts at the Fresh Kills Landfill on Staten Island, New York. Had I been present I would have voted, ''yea.''

EXPRESSING SENSE OF CONGRESS THAT CHINA SHOULD CEASE PERSECUTION OF FALUN GONG PRACTITIONERS

SPEECH OF

HON. SHEILA JACKSON LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to strongly support H. Con. Res. 188, Sense of Congress that the Government of

the People's Republic of China Should Cease Its Persecution of Falun Gong Practitioners. I urge the immediate release of the organization's leaders and members arbitrarily detained in a nationwide sweep aimed at suppressing the group. When the Chinese government judged the organization of Falun Gong as illegal, and banned all its activities, stories about Falun Gong have made headlines of major news media around the world. The Chinese authorities have launched a crackdown on the practice of Falun Gong on the Chinese mainland.

The suppression of Falun Gong in China has been brutal. It has been systematic. The police used force against the group, reportedly kicking and jumping on the peaceful protesters before removing them. The leaders of the People's Republic of China have arrested, jailed, beaten and tortured thousands of peaceful followers of Falun Gong, a religious synthesis of traditional Chinese physical exercises and Buddhist and Taoist teachings. Adherents to this meditation movement have done nothing more than express their humble belief that people should be kind to one another and work on themselves to change their own lives. They are nonviolent and have not adopted any so-called foreign beliefs. They do not promote nor do they use drugs. They are not a cult. They only want to meditate, take their lives into their own hands and attempt to live productive and peaceful lives.

H. Con. Res. 188 expresses the sense of Congress that the Government of the People's Republic of China should cease its persecution of Falun Gong practitioners. Falun Gong is a peaceful and nonviolent form of personal belief and practice with millions of adherents. There are millions of practitioners in the United States. This is wrong and must be stopped. H. Con. Res. 188 requires that the United States Government use every appropriate public and private forum to urge the Government of the People's Republic of China to (1) release from detention all Falun Gong practitioners and put an end to the practices of torture and other cruel, inhumane, and degrading treatment against them and other prisoners of conscience; and (2) abide by the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights by allowing Falun Gong practitioners to pursue their personal beliefs.

China should stop persecuting the practitioners of Falun Gong and stop exporting its tactics of terrors.

Therefore, I strongly support H. Con. Res. 188.

IN RECOGNITION OF A GREAT AMERICAN SOLDIER: MR. ELTON L. HATLER

HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. FLETCHER. Mr. Speaker, it is an honor for me to stand here today to recognize a great soldier and a great American, Mr. Elton L. Hatler. On May 2, 1945, Mr. Hatler was serving as a Browning Automatic Rifleman of Company G, Second Battalion, Fifth Marines, First Marine Division, action against enemy Japanese forces on Okinawa, Ryukyu Islands.

Private Hatler's platoon had been forced to withdraw in the face of heavy enemy fire. Although Private Hatler had suffered wounds from the enemy fire, he refused to leave the side of a Marine whose legs had been blown off below the knee. Private Hatler held off the enemy for three grueling hours, attempting to drag his fallen comrade to the safety of American lines. It was only after the man succumbed to his wounds, and Private Hatler had expended his ammunition, that he abandoned his position.

In a citation directed by the Secretary of the Navy on behalf of the President of the United States, Private Elton L. Hatler was awarded the prestigious Distinguished Navy Cross, stating that ''His personal valor and devotion to duty were in keeping with the highest traditions of the United States Naval Service.''

The Kentucky Department of Veterans Affairs will again honor Mr. Hatler, a resident of Winchester, Kentucky, at a special ceremony on July 26, 2002.

NURSE REINVESTMENT ACT

SPEECH OF

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Mr. ENGEL. Mr. Speaker, I am pleased we are here today to pass this legislation that will immediately begin to alleviate the nursing shortage across the nation. I introduced legislation last year to address the nursing shortage because of the tremendous impact the lack of nurses has had in New York and across the country. I am pleased that many of the provisions in my legislation are included in the bill before us today.

Mr. Speaker, the nursing shortage is quite possibly the most important issue in health care. Nurses are on the front lines of the delivery of health care. They provide direct day to day care to patients and are invaluable to our health care system. As the number of nursing vacancies continues to rise, the number of nurses entering the field continues to decline. Statistics have shown that the average age of the nursing workforce is about 44 and that many are leaving the field for more lucrative professions. Enrollment in nursing schools is down as well, which leads many to believe that this is a problem that will only get worse. Compounding the problem, the baby boomer generation will soon hit retirement age and will require more acute care.

For these reasons, the legislation before us today is critically important. Included in the Nurse Reinvestment Act are provisions to create scholarships for nurses wishing to enter the field and loan repayment programs to encourage nurses to continue practicing. In an effort to address the number of nurses leaving the nursing profession, the legislation includes grants for nurses to continue their education while practicing nursing.

Mr. Speaker, nurses deserve these programs and I congratulate everyone involved in this process for their hard work and commitment to this issue. This is truly legislation that will help us all. Everyone at one time or another is in need of care and the first person you see when you get that care is a nurse. So we can all be proud to pass this legislation today. As a Member of the Subcommittee on Health, I urge all of my colleagues to vote yes.

FLIGHT 93 NATIONAL MEMORIAL ACT

SPEECH OF

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Ms. SCHAKOWSKY. Mr. Speaker, on the morning of September 11th, 2001 passengers of United Airlines Flight 93 were getting ready for the long flight to California. Their thoughts may have been consumed with family, friends, or work. What was about to occur on that tragic journey was probably the furthest thing from their minds. As the mayhem of that morning unfolded in New York City and in our nation's capital, the passengers of Flight 93 were about to directly experience the horror for themselves. Four terrorist hijackers had moved all of the passengers to the rear of the plane and attempted to seize control of the cockpit and direct the plane to its destination of destruction.

One can only imagine the fear that rushed through the veins of each passenger on that doomed flight. Like many people, I have wondered, ''What would be going through my mind? What would I have done?'' The passengers and crew of Flight 93 provided us with their answers. Knowing of the chaos that was taking place on the ground below, these brave individuals decided to push fear aside and control their destinies and our futures for the last time.

Although the outcome was fatal for the passengers and crew of Flight 93, one could only guess at the countless number of lives they may have saved had those passengers not reacted with bravery, courage, and pride. September 11th was a day that showed us how vulnerable we as Americans can be, but the passengers and crew of Flight 93 reminded us of how the greatness of this country can still shine through us, even in our darkest hour.

I urge my colleagues to support H.R. 3917, which establishes a memorial at the crash site of United Airlines Flight 93 to honor the passengers and crew of Flight 93, to always remind us of what it truly means to be an American.

CONFERRING HONORARY CITIZENSHIP ON THE MARQUIS DE LAFAYETTE

SPEECH OF

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Mr. ROEMER. Mr. Speaker, I rise in strong support of S. J. Res. 13, a joint resolution conferring honorary membership of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

At a time in our history when we face challenges from enemies who oppose the very ideals that make our nation great, we are reminded of those brave individuals throughout our nation's history who have made sacrifices

to advance American principles of freedom and representative government. Marie Joseph Paul Yves Roch Gilbert du Motier, the Marquis de Lafayette, was a man who in his affection for the ideal of liberty, made great personal sacrifices.

A citizen of France, the Marquis de Lafayette first demonstrated his passion for freedom when, at the young age of 19, he decided to make a four-month voyage to America to fight alongside Americans during the Revolutionary War. Marquis de Lafayette was assigned to the staff of George Washington with the rank of Major General in 1777 and served with distinction. During the war, he demonstrated great leadership and unrelenting bravery to American troops, as he led Americans to several victories and sustained an injury during the Battle of Brandywine.

General Lafayette not only risked his life for the pursuit of American freedom, but he freely used his position of influence in France to garner additional support for the American war effort. In 1779, he persuaded the French government to fully support America in the war against Britain, which led to the commitment of French troops and much needed supplies to the American army. He also contributed $200,000 of his personal fortune in support of the colonies during the Revolution. After the war, Lafayette continued to assist American diplomatic relations with France in establishing close relationships with American ambassadors to France, Benjamin Franklin and Thomas Jefferson.

The most striking of General Lafayette's qualities was undoubtedly his steadfast and fearless devotion to the principle of liberty. Even after the Revolutionary War, Lafayette continued to support and promote the institution of representative government. Upon his return to France, Lafayette was one of the first to advocate a National Assembly, and worked toward the establishment of a constitutional monarchy during the years leading up to the French Revolution. In 1830, he became the leader of a Revolution that dethroned the Bourbons and made possible a constitutional monarch in France. These actions came at a great personal expense to Lafayette as he lost support among the French nobility, was forced to flee the country, and had his personal wealth confiscated. Just before his death in 1834, Lafayette was a vocal proponent of the move to a pure republic in France.

The portrait of the Marquis de Lafayette now displayed opposite President Washington in the United States House chamber is a tribute to his loyalty to America and his vital role in winning our freedom. Lafayette's friendship and affiliations with the most prominent figures in our nation's history, including George Washington, John Adams, Thomas Jefferson, James Madison, James Monroe, and John Quincy Adams, and the respect he garnered from them is a testament to his commitment to our nation's founding and its principles.

Mr. Speaker, in light of the events of September 11th, stories of personal sacrifice, bravery, and commitment take on a new meaning and greater importance for all Americans. The story of General Lafayette is one, in particular, that inspires us to continue, in the face of adversity, to fearlessly protect our nation's principles and to advance them globally. In Lafayette's words: ''Humanity has won its battle. Liberty now has a country.''

AMENDMENT TO FREEZE MEMBER'S PAY

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. RILEY. Mr. Speaker, ask the average American working in the private sector about his automatic yearly pay raise and he will look at you like you're crazy. Most Americans don't get an annual Cost of Living Adjustment (COLA), so why should members of Congress?

It is time that we restore the American people's confidence in their elected leaders. It is time we eliminate the automatic pay increases for members of Congress and live by the same standards as the people we represent.

Mr. Speaker, this amendment will freeze Member's pay at its current level and eliminate the annual COLA given to them under the Government Ethics Reform Act. Nothing in this law will prohibit Congress from raising its pay. However, if members of Congress think they deserve a pay raise, then they must vote for it in full view of the American people.

I urge my colleagues to support this amendment and do what is moral and honorable—If you want a raise, let's have an up or down vote, before your boss—your constituents, the American people.

SENSE OF CONGRESS REGARDING OVARIAN CANCER

SPEECH OF

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Mr. BURTON of Indiana. Mr. Speaker, I rise in strong support of H. Con. Res. 385, a resolution which states that the Department of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and that health care programs and health insurance plans should cover these tests.

Specifically, H. Con. Res. 385 would encourage the development and wide-spread use of a blood test that would detect ovarian cancer in its early stages, thus significantly reducing fatalities that result from the most lethal form of ovarian cancer. Currently, more than 75 percent of women with ovarian cancer are not diagnosed until they are in the fourth stage of the disease. The new protein-screening blood test would detect almost all ovarian cancers in the first stage of the disease when 5-year survival rates approach 95 percent. This is an extremely important step in helping to eliminate the threat of ovarian cancer. Early detection is critical for survival success and should be everyone's goal.

There are many new cancer screening devices becoming available, and we must use these new technologies to help protect more Americans from the scourge of cancer. I know first-hand the pain that cancer can put a family through. On May 10, 2002 my wife passed away after a very long and difficult battle with colon cancer. I hope that all health insurance plans utilize to the fullest extent existing and promising detection methods for all cancers. Early detection can go a long way toward sparing other families from the pain of having a loved one suffer from cancer.

IN RECOGNITION OF A GREAT AMERICAN SOLDIER: MR. RICHARD S. STARKS

HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. FLETCHER. Mr. Speaker, it is an honor for me to stand here today to recognize a great soldier and a great American, Mr. Richard S. Starks. Mr. Starks served as a second lieutenant, 414th Bombardment Squadron, 97th Bombardment Group, Air Corps, United States Army. He is being honored today for his extraordinary heroism in action over occupied territory in Continental Europe, August 21, 1942.

As chronicled in the official service record dated August 23, 1942, Lieutenant Richard S. Starks was a B–I 7E bomber pilot on a bombardment mission when his aircraft was attacked by 20–30 enemy fighters at an attitude of approximately 21,000 feet. The cockpit of his aircraft became severely damaged by heavy enemy fire and the co-pilot was fatally wounded. Lieutenant Starks was seriously wounded in the arm, neck and face and his oxygen mask became dislodged. Despite these handicaps, and overwhehning odds, Lieutenant Starks directed the operation of his aircraft and, when physically able to do so, gave material assistance in its operation, to the end that he safety landed his aircraft at a friendly airdrome.

On August 23, 1942, in a citation directed by General Dwight D. Eisenhower, Lieutenant Richard S. Starks was awarded the prestigious Distinguished Service Cross, stating that his ''cool courage and heroic action upheld the highest tradition of the military forces of the United States and contributed materially to the success of a mission of vital importance.''

The Kentucky Department of Veterans Affairs will again honor Mr. Starks, a native of Midway, Kentucky, at a special ceremony on July 25, 2002, at the Aviation Museum of Kentucky.

GARDEN CITY HIGH SCHOOL GIRLS LACROSSE TEAM

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KING. Mr. Speaker, I rise today to congratulate the Garden City High School Girls Lacrosse Team for winning a fourth consecutive New York State Championship. The athletes, parents, and citizens of Garden City should all be very proud of this enormous accomplish.

On June 8, 2002, the Garden City defeated East Rochester 8–6 at SUNY, Cortland to win their fourth consecutive Class B Small Schools State Championship. On behalf of the 3rd District of New York, I would like to recognize and honor the following students whose feat this

past year will certainly be ranked among the best in New York State high school athletics:

GIRLS LACROSSE TEAM

Brittany Barry	Allie Lloyd
Kerin Boghosian	Kerry McCaffrey
Katie Cox	Ali McDonough
Meghan Crisafulli	Tara McKennett
Erin Daly	Anna Mitchell
Bradie Dwyer	Jenna Piscopo
Jackie Fiore	Jessie Riccio
Lauren Gallagher	Meghan Rose
Ali Holland	Caitlin Sotell
Brittany Jesser	Kristin Strief
Kaitlain Kamrowski	Meg Sullivan
Meg Lindsay	Erin Walters

I would also like to extend special recognition to Garden City High School Head Girls Lacrosse Coach Diane Chapman, Assistant Coach Janet Walsh, Principal John Okulski, and Athletic Director Nancy Kalafus.

Once again, congratulations to all the students, coaches, and parents on this wonderful achievement.

TRIBUTE TO ABE ROSENTHAL

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. SMITH of New Jersey. Mr. Speaker, I rise to pay tribute to Abe Rosenthal, the New York Times journalist who received the Presidential Medal of Freedom earlier this month for his consistently insightful comments on human rights, and his outspoken defense of persecuted Christians and Jews throughout the world.

Many observers of foreign affairs have difficulty believing that Christians in the modern era have been, and continue to be, persecuted on a wide-scale basis throughout the world. Rosenthal's articulate and passionate writings helped bring much-needed awareness to their plight. In 1997 alone, he wrote over 20 stories about persecuted Christians, detailing the plight of Christians in a wide variety of regions, including China, the Sudan, and Pakistan.

The awareness he raised about people of many different faiths who suffer religious persecution helped win passage of the historic ''International Religious Freedom Act of 1998'' which established the United States Commission on International Religious freedom, and laid out a framework for denying foreign assistance to egregious violators of religious freedom.

I was very proud to have had a direct hand in writing portions of that legislation. I personally chaired several hearings on religious persecution around the world, and my committee covered the persecution of every faith. We took testimony from Muslim Uighurs, who are persecuted by Communist China; the worldwide problem of Anti-Semitism; as well as persecution against Christians.

The creation of the Commission and the office of the Special Ambassador, as well as the institution of the annual Religious Freedom Reports, were among a number of measures provided by Congressman Frank Wolf s landmark legislation on international religious freedom, which my committee—the Subcommittee on International Operations and Human Rights—marked up in 1997, and enacted by Congress in 1998. All these measures represented important steps toward helping millions of people around the world who are persecuted simply because they are people of faith. But the Reports themselves clearly demonstrate that we need to do more.

Some find it odd that a man who has become such a great champion for persecuted Christians is himself Jewish. But this is not really so unusual when you look beneath the surface. When Rosenthal learned that Christians suffered for their faith, while most in the world have turned a blind eye, he felt compelled to act. The Jewish community has a special sensitivity to religious persecution, because when it happens, it almost always hits their community first. ''Never again'' has a special meaning to a community that was almost exterminated while the rest of the world looked on and watched.

Rosenthal's passionate and steadfast desire to speak out for basic human dignity was formulated in a profound way because of a brutal murder that occurred in 1964 in Queens early in his career with the New York Times. In that year, a woman named Catherine Genovese was brutally murdered in her own neighborhood. Although approximately 38 of her neighbors heard her cries for help, not one person responded as she was stabbed over 30 times.

The incident caused Rosenthal to question our responsibility to speak out against injustice, not just for a neighbor suffering in our midst, but for all those who suffer injustice and persecution throughout the world. ''I am not going to be one of the 38,'' he said—one of those who failed to speak out or act.

I am proud to say that Mr. Rosenthal has remained true to his promise. He has consistently spoken out on behalf of those suffering for their faith. He has acted boldly not only through moving readers and inspiring persecuted Christians all over the globe, but also by challenging leaders of government who would rather not be bothered by the sufferings of the oppressed, and business leaders bent on a drive for profits above all else. He has moved many to show a concern for basic human rights and re-evaluate their priorities.

Mr. Rosenthal, you have acted, speaking out on behalf of so many, and you have called so many others, including us here in this Congress to do the same. For this, you deserve our thanks and praise.

PAYING TRIBUTE TO THE LAO VETERANS OF AMERICA, MICHIGAN CHAPTER

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. ROGERS of Michigan. Mr. Speaker, I rise today in recognition of the Lao Veterans of America, Michigan Chapter. These veterans who served in the United States ''Secret Army'' are Hmong and Lao combat soldiers. They served in Laos during the Vietnam War from 1961 until 1975.

The Lao Veterans of America is made up of tens of thousands of Hmong and Lao combat veterans and their families who played a historic role in the covert operations during the Vietnam conflict era. Fearless Hmong men, women and children fought and died alongside U.S. soldiers. It is reported that approximately 35,000 to 40,000 Hmong soldiers lost their lives in combat, 50,000 to 58,000 were wounded, and 2,500 were missing in action. Even when the war had ended, North Vietnamese Communist forces continued to commit deadly acts of violence on the innocent people of Laos.

The Lao Veterans of America represent a group of selfless men and women, who risked their lives in the fight for world freedom and democracy. Mr. Speaker, I ask my colleagues to join me in recognizing the Lao Veterans of America, Michigan Chapter, for their outstanding efforts and contributions to this world.

HONORING ALBERT NI ON HIS FIRST PLACE FINISH AT THE MATHCOUNTS CHAMPIONSHIPS

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mrs. BIGGERT. Mr. Speaker, I rise today to recognize Albert Ni for placing first at the MATHCOUNTS Championships. As an eighth-grader from Kennedy Junior High School in Lisle, Illinois, Albert defeated 227 other competitors to finish first in the nation as an individual champion.

This year was Albert's second time participating in the MATHCOUNTS competition, improving on his 37th place finish in the nation last year. At the competition this year, Albert aimed to place in the top three in the individual competition, but far surpassed his goal by placing first. As the MATHCOUNTS Individual National Champion, Albert received an $8,000 college scholarship, a computer, and a trip to space camp.

Additionally, Albert competed as a member of the hard-working and talented Illinois team, which included Christopher Chang, Greg Gauthier, and Jeffrey Kuan. In the MATHCOUNTS Team Championships, the Illinois team finished second in the country after a team from California—an impressive accomplishment.

The success of Albert and his teammates demonstrates the excellence in education that the communities and schools in Illinois—and in the 13th Congressional District in particular—have always worked hard to achieve. Our students and teachers know that a solid math and science education is key to future success, and competitions like MATHCOUNTS simply underscore that students in Illinois and the 13th Congressional District are leading the way to excellence in mathematics.

This fall Albert will attend the Illinois Mathematics and Science Academy and he is looking forward to continuing his involvement in math competitions at the high school level. We wish him much continued success.

PERSONAL EXPLANATION

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mrs. CLAYTON. Mr. Speaker, on Thursday afternoon July 18, 2002, I was called back to

my district for emergency purposes. As a result, I missed 4 rollcall votes.

Had I been present, the following is how I would have voted:

Rollcall No. 320 (On Agreeing to the Amendment) to H.R. 5121—''Moran of Virginia Amendment''—''Yea''

Rollcall No. 321 (On Passage—H.R. 5121—Legislative Branch Appropriations for Fiscal Year 2003—''Yea''

Rollcall No. 322 (On Ordering the Previous Question)—''Yea''

Rollcall No. 323 (On Agreeing to the Resolution—''Yea''

HONORING COLONEL JAMES A. MARKER UPON HIS RETIREMENT FROM THE UNITED STATES AIR FORCE

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing Colonel James A. Marker upon his retirement from the United States Air Force.

Colonel Marker, who has served in active duty for 43 years, is the longest serving member of the Air Force currently on active duty. When he first enlisted on June 1, 1959, Dwight D. Eisenhower was the President of the United States. He served as an enlisted airman for 14 years before being commissioned as an officer in October of 1973.

Colonel James A. Marker, Jr. is the Inspector General, 375th Airlift Wing, Scott Air Force Base, Ill. As Inspector General, he supports the wing commander through oversight of the wing fraud, waste, abuse, and complaints program, processing complaints from the military and civilian work force, their families, the general public, elected state and federal officials, and higher headquarters personnel. He performs complaint analyses to determine the appropriate investigation method or referral agency, appoints and trains investigation officers, conducts investigations, reviews evidence, coordinates legal and appointing authority review of completed reports of investigation, and notifies complainants of investigation findings.

Colonel Marker is a graduate of Jefferson Union High School, Richmond, Ohio in 1958. The Colonel earned a Bachelor of Science degree in Sociology in 1973 from the College of Great Falls, Mont. and a Master of Science degree in Criminal Justice in 1983 from Central Missouri State University, Warrensburg, Mo.

Colonel Marker entered the Air Force as an airman basic and performed various duties as an enlisted security policeman. He was commissioned as a second lieutenant in October 1973 through the Bootstrap Commissioning Program and remained in the security police career field. If the Air Force published a list of air force terminology, the word ''lifer'' would surely be in it. Next to it, possibly, would be a picture of Col. James Marker. And he'd be smiling. Being called a lifer no longer offends him. On the contrary, he sees the term lifer as a badge of honor, a proud testimony of his long, devoted service.

However, his career almost didn't get off the ground. Marker had three relatives who fought in World War II and inspired the 18-year-old to join the Air Force. But the teen from Steubenville, Ohio, wasn't thinking of a lifelong commitment when he signed up in Pittsburgh. He wanted to be a photographer. But the Air Force needed cops, air policemen back then.

He soon married Bev, and they both decided he'd re-up. He's has been doing that ever since. The couple raised five children and lived in too many places to count—three tours were in Alaska. He is ending up here at Scott Air Force Base, Illinois. After 14 years, Marker, then a technical sergeant, decided to become an officer. Col. Marker stayed because he loves the people, his job and the service he's given his country. That he's a true patriot is apparent when he talks about that service. ''If it were up to me,'' Marker has said, ''I'd stay in the Air Force until the day I die.''

Mr. Speaker, I ask my colleagues to join me in honoring Colonel James A. Marker and to congratulate him for his retirement after 43 years of active duty service in the Air Force.

PERSONAL EXPLANATION

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. BARRETT. Mr. Speaker, because of commitments in my home state of Wisconsin, I was unable to vote on rollcall No. 320 through 325. Had I been present, I would have voted:

Aye on rollcall No. 320
Aye on rollcall No. 321
No on rollcall No. 322
No on rollcall No. 323
Aye on rollcall No. 324
Aye on rollcall No. 325

PERSONAL EXPLANATION

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following votes due to a family medical emergency. If I had been present, I would have voted as follows:

Rollcall vote 324, on agreeing to H. Con. Res. 439, I would have voted yea.

Roll call vote 325, on agreeing to H. Res. 492, I would have voted yea.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. BECERRA. Mr. Speaker, on Monday, July 22, 2002, I was unable to cast my floor vote on rollcall Nos. 324, and 325. The votes I missed include rollcall vote 324 on the Motion to Suspend the Rules and Agree to H. Con. Res. 439, Honoring Corinne ''Lindy'' Claiborne Boggs; and rollcall vote 325 on the Motion to Suspend the Rules and Agree to H. Res. 492, Expressing Gratitude for the 10-month World Trade Center Cleanup and Recovery Efforts.

Had I been present for the votes, I would have voted ''aye'' on rollcall votes 324 and 325.

HONORING ALEXANDER MOULTON OF CLIFTON, TEXAS

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. EDWARDS. Mr. Speaker, the 11th Congressional District and Central Texas lost an outstanding young citizen and one of the leaders of the next generation with the untimely death in June of Alexander (Alex) Moulton of Clifton.

Alex and his twin sister Alyson were born in Austin on December 14, 1982, the children of Robert and Carol Moulton. In his all-too-brief life, Alex, lived in Texas, Virginia, New Hampshire and New Mexico before the family settled in Clifton, a city of approximately 3,500 resident just north of Waco.

On a hot Texas summer afternoon in June, Alex and a group of friends were swimming at nearby Lake Whitney when one of Alex's friends started struggling in the water. Two of the group ran for help and Alex went into the water to help his friend. Alex was able to keep the struggling swimmer afloat until help arrived, but by then, he was exhausted himself. Alex went under and stayed under. When his friends were able to pull him to shore, they could not resuscitate him. Alex Moulton, at 19½ years of age, had given his life so that another could live.

Losing a friend and a loved one is always a heavy burden, a loss made even harder to bear and more difficult to accept when it is someone with the promise of such a bright future. For Alex Moulton, who grabbed each minute of life with joy, and held on until he had wrung it dry of all the possibilities, every day sparkled and every tomorrow looked even more dazzling. This was the life that he sacrificed to help someone in trouble.

Mr. Speaker, I ask the Members of the House of Representatives to join me in honoring and celebrating the life of Alex Moulton.

HONORING THE CHILDREN'S HOME OF LUBBOCK

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. COMBEST. Mr. Speaker, I rise today to honor and recognize the Children's Home of Lubbock, Texas for the outstanding work it does on behalf of children in the State of Texas. The Children's Home of Lubbock has shown an unwavering commitment to service and placement of disadvantaged and deserving children.

The doors of The Children's Home of Lubbock opened in 1954. The house began as an extension of the Broadway Church of Christ in Lubbock, Texas. Since that time more than 4,400 children have been helped either through placement in a family or by receiving

a loving environment at the home itself. This early faith based program has been an exemplary model for other similar homes in Texas. The Home provides not only shelter, food, and safety but therapy and love also. Permanent placement is a goal of the home, but the overriding concern is caring for the children regardless of the problem or situation.

As it becomes increasingly difficult for children in this world, it is imperative that centers like the Children's Home of Lubbock continue to perform the good work that they do. The home functions as more than just a center for children; it is an invaluable community resource on which many local, county, and State agencies have come to depend. The staff and volunteers are top notch, Christian individuals who give not only of their time, but also of their heart and soul.

It is with great respect, Mr. Speaker, that I call on all Members to join me in congratulating and thanking the Children's Home of Lubbock. The Children's Home of Lubbock's years of service have benefitted not only the community, but the children and the adopting families. The contributions of the Children's Home of Lubbock number more than these mere words can express.

HUMAN RIGHTS IN CUBA

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. TANCREDO. Mr. Speaker, in my office hangs a picture of a woman—Marta Farias holding a photograph of her son—Lazaro Planes Farias. Mr. Planes is one of an estimated 400 Cuban political prisoners who have been unjustly imprisoned for having the courage to publicly speak out against the Communist regime, a regime which lives in perpetual terror of its citizens exercising the most basic forms of human rights. The Cuban Government's official charge against Mr. Planes is that he committed ''disrespect and resistance.'' His ''disrespect'' was to have the audacity to form an opposition political party to promote freedom. knowing the grave risk he was taking by openly opposing Fidel Castro, Planes continued to speak out—demading human rights and democracy for all Cubans.

He was released from prison following a request by Pope John Paul—the Second in 1998, but soon after the Pope's visit—the Communist authorities deemed him too great a risk, and imprisoned him again. Planes suffers today in Castro's gulags—recognized by human rights groups as some of the worst prisons in the world. Castro has not allowed the International Committee of the Red Cross to inspect prison conditions since 1989. And it's no wonder—men and women who refuse to undergo ''re-education'' in the gulag are subjected to daily beatings, malnourishment and an appalling lack of medical care.

The United States of America and the rest of the world can no longer remain silent. The struggle undertaken by these courageous men and women demands international recognition. That is why I have joined with 17 of my colleagues in the House and Senate in the Congressional Cuban Political Prisoners Initiative. Each month we will feature a new prisoner. And each month there will be a new name, a new face and a new story which strikes down Castro's lie that there are no political prisoners in Cuba.

I am here today to urge my colleagues on both sides to stand with me in demanding the unconditional release of Mr. Farias and all Cuban political prisoners.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 2002

The House in Committee of the Whole House on the State of the Union had under consdieration 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:

Ms. McCOLLUM. Mr. Chairman, I rise today in support of the amendment to provide an additional $10 million to the National Endowment for the Arts (NEA) and $5 million for the National Endowment for the Humanities (NEH). I commend the authors for their commitment to the arts and urge my colleagues to vote in favor of this amendment.

This amendment will support the NEA's Challenge America initiative, which has been successful in expanding access to the arts for underserved communities. To broaden the reach of federal arts funding, Challenge America supports arts education, after-school arts programs and community arts development initiatives.

In my state of Minnesota, an NEA grant helped to establish ''Creating the Link''—an after-school program for Hmong youth. St. Paul is home to the largest concentration of Hmong in the United States. Many Hmong children who have grown up in this country have not had opportunities to learn about the culture and traditional art of their elders. ''Creating the Link'' provides the connection between these children and traditional Hmong folk art—preserving this cultural richness for future generations.

Through support of programs such as ''Creating the Link,'' the National Endowment for the Arts has brought the enrichment of artistic experience to communities in every corner of the nation. Art is no longer considered a pastime reserved for the elite class, but is widely recognized as central to the cultural, social and cognitive development of a well-rounded public.

Further support for the National Endowment for the Arts is an important investment for all of our communities. I urge my colleagues to support this amendment.

TRIBUTE TO HOWARD W. PHILLIPS

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize a lifetime of achievements by Howard W. Phillips from Mt. Vernon, Illinois.

Mr. Phillips dedicated his life to being a good citizen. He was a leader that was not only well respected, but loved by the people that knew him. Howard put the needs of his community above his own.

As a veteran of the United States Navy, Howard defended his country and did it well. He entered the Navy on May 26, 1944. He served while World War 11 was devastating Europe. After his time in Active Duty, he became involved with veterans groups. Mr. Phillips was a member of American Legion Post 141. He served on the Military Burial Detail and was chaplain of the detail for 21 years. As chaplain he conducted almost 1,000 funerals. The Legion designated him Legionnaire of the Year in 1993 and again in 1997. He is the only person to receive this award twice.

Mr. Phillips was past commander of AMVETS Post 4. While commander, Howard was designated by the state executive as the outstanding AMVET Adjutant in the state. Post 4 was also named the outstanding AMVET post by the National Commander while Howard was in charge. Another of his many achievements was being appointed chairman of all Jefferson County Veterans Groups in order to rename 42nd Street and Fishers Lane, in Mt. Vernon, to Veterans Memorial Drive.

Howard was also an active member of Epworth United Methodist Church. His faith in God shined through in his personality. Mr. Phillips' love for others was demonstrated by involvement throughout the community. He participated in such groups as the American Cancer Society, the Mt. Vernon Fire and Police Commission, and the Murray Parents Association. Howard received the Dr. Plassman award for Outstanding Volunteer Service from the Murray Parents Association for his work with the handicapped.

I would like to take this time to honor the memory of my friend that gave so much to his country and community. All men should aspire to hold themselves to a standard equal to that of this man, Howard W. Phillips. My heart and prayers go out to his family and friends.

THE RESTORATION OF THE DAVENPORT HOTEL

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. NETHERCUTT. Mr. Speaker, I rise with great pride as a native of Spokane, Washington, to recognize the reopening of the historic Davenport Hotel. Mr. Speaker, this historic event would not have been possible without the commitment and perseverance of Walt and Karen Worthy, the owners of the property.

Designed by renowned architect Kirtland Cutter and built in 1914 by Louis Davenport, this grand hotel has been the centerpiece of downtown Spokane and an immense source of community pride. It has played host to American presidents, generals, statesmen, an stars of the opera, stage and screen. During the 1980s and most of the 1990s, the Davenport fell into great disrepair. Over almost two decades several owners tried to save the Davenport Hotel, but could not gather the necessary resources or assemble community support behind a restoration project of this magnitude.

The project needed someone who was willing to be completely dedicated to this monumental venture of restoring a part of our local history. Enter Walt and Karen Worthy. Walt and Karen purchased the Davenport in 2000, and made the top-to-bottom restoration of this landmark their labor of love. With great attention to detail and personal investment, Walt and Karen, with the help of many highly skilled tradesmen, have brought to life the Davenport lobby in all of its original splendor. They have restored the elegant beauty and fine points of the thematic ballrooms, fine restaurants and guest rooms to a state that would make Mr. Davenport proud.

On behalf of the residents of Spokane and the 5th Congressional District of Washington, our thanks go to Walt and Karen Worthy for preserving and restoring this magnificent part of our Pacific Northwest heritage.

HONORING CORINNE ''LINDY'' CLAIBORNE BOGGS ON OCCASION OF 25TH ANNIVERSARY OF FOUNDING OF CONGRESSIONAL WOMEN'S CAUCUS

SPEECH OF

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Mrs. ROUKEMA. Mr. Speaker, I rise in support of this resolution honoring the career and achievements of Former Congresswoman Corrine ''Lindy'' Claiborne Boggs. Lindy Boggs, representing the 2d district of Louisiana, served in this House from March 20, 1973, to January 3, 1991. I was fortunate enough to serve with Lindy, and I feel fortunate to be able to honor her accomplishments in Congress, and on behalf of women in Congress.

Lindy's time in the House of Representatives and in Washington was an environment quite different than what we now understand. During her service, she achieved a number of firsts. She was the first woman elected to the House of Representatives from Louisiana; the first woman to serve as a Regent of the Smithsonian Institute; the first woman to preside over a national convention (the Democratic National Convention in 1976); the first woman to receive the Congressional Medal from the Veterans of Foreign Wars; as well as the first woman to receive a Tulane University Distinguished and Outstanding Alumni Award.

Lindy focused on many issues while in Congress and lent a voice to the many policy debates that took place during her tenure. She accomplished much in the areas of literacy, housing, scientific research, and technology development. These are not the typical ''Women's issues'' assumed for her time, and I am sure she felt much pressure to focus on issues affecting women in particular. However these issues were viewed through a woman's eye. I can relate to that experience. In my early campaigns for Congress, reporters constantly asked me what I would do about ''women's issues.'' My response was that ''all issues are women's issues.''

However once I got to Washington, I had a similar experience to the one Lindy's daughter Cokie Roberts describes in her book, We Are Our Mothers' Daughters, ''most [congresswomen] arrived with no agenda for women in mind, but they all found, once they started serving, that women all over the country came to them with their concerns.'' I found that some of the so-called ''women's issues'' weren't being addressed by the men in power. It wasn't that the men were opposed to these issues—they just were not sufficiently aware of them. I realized that if the women in Congress don't act on these issues, no one else would.

After over 20 years in Congress, I still believe that women make a unique and necessary contribution to the policymaking process in all areas of public policy. We bring our experience as wives, mothers, daughters, sisters, citizens, entrepreneurs, or workers to the table when deliberating important issues of the day.

Lindy understood this, and contributed much to what Congress achieved during her time here. It is for this reason that we stand on the House floor today lauding her success and accomplishments in this Body. I am proud to have served with Congresswoman Boggs, and I am grateful for all that she has accomplished for women in Congress and in this country.

Mr. Speaker, I ask my colleagues to support this legislation in her honor.

PAYING TRIBUTE TO THE CHILD WELFARE LEARNING COLLABORATIVE

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. ROGERS of Michigan. Mr. Speaker, I rise to honor the accomplishments of Catholic Social Services of Lansing/St. Vincent Home and Michigan State University for development of the Child Welfare Learning Collaborative.

The new collaborative will focus on applying the resources and expertise of both organizations to explore and develop models of best or even better practice in service delivery to children and families.

By calling on a variety of expertise across disciplines, including human medicine, social work, the legal profession and community leaders, the collaborative will bring these forces together with the very families served to increase the effectiveness of working with those families and their children.

On September 4, 2002, the collaborative will gather to launch this new initiative, committed to bringing the latest, cutting edge research and scholarship to practice, gathering input from well-seasoned practitioners, talented graduate students, and the children and families receiving services.

The collaborative will transform what is known and learned into best practice models that will benefit the children and their families. Especially critical is the collaborative's intention to provide a voice and face for foster children who must remain sheltered by confidentiality protections.

The September 4 kickoff event features Michigan State University Professor John Seita, a former foster child himself, as keynote speaker. Mr. Seita is an accomplished author on the topic of foster care.

Mr. Speaker, we wish to extend congratulations to Catholic Social Services of Lansing/St. Vincent's Home and Michigan State University for their commitment to serving the children of Michigan and to developing a program that will serve as a model across the nation. We are honored to support their efforts and ask that our colleagues in the U.S. House of Representatives Join us in recognizing their very worthy achievements.

HONORING MR. RON OATES

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. CLEMENT. Mr. Speaker, Congressman Phelps and I rise today to recognize Ron Oates and his accomplishments in the music industry.

Ron Oates' name is a familiar one to anyone who has ever read the back of an album cover, or a CD insert. His list of friends and artists with whom he's recorded, sounds like a page from ''Lifestyles of the Rich and Famous.'' He is referred to by many in Nashville as ''Oatesart'' because of his incomparable style, arrangements and original interpretations of every music category.

A 32-year veteran of the music industry, his contributions as a keyboard player, arranger, producer, and writer are often referred to as ''Impeccable'' by his peers. He has worked with such greats as Gladys Knight, Olivia Newton-John, Anita Pointer, Dolly Parton, The Oak Ridge Boys, Eddy Arnold, Lefty Frizzell, The Judds, Keith Whitley, Marty Robbins, Bobby Goldsboro, Dottie West, Linda Davis, Sawyer Brown, and the list goes on. His credits as a producer include such diverse artists as Engelbert Humperdink, Vern Gosdin, Cristy Lane, Doug Supernaw, Maurice Williams, and the Zodiacs, Dobie Gray, and many others.

Ron was born in Washington D.C. Following College and a five-year stint with the Navy Band, Ron and his son made the move to Nashville in late October 1969. In November of 1969, Ron played on his first hit record, with singer Bobby Goldsboro. From that point on, his music career has spanned from records, to jingles, to motion picture sound tracks.

His talents brought America's famous jingles to life, such as McDonalds, Burger King, RC Cola, 7-UP, Kraft, Miller Beer, Coors, United Airlines, and we cannot forget the most notable commercials of all, the famous, ''Where's The Beef.'' His film credits include such hit titles as ''The Best Little Whorehouse in Texas,'' ''Nine To Five,'' ''Sesame Street-Follow That Bird,'' (which won a Grammy in 1985 for best children's album), ''Smokey And The Bandit,'' and the themes from ''The Exterminator'' and ''The Buddy System'' (entitled ''Here's That Rainy Day,'' performed by Gladys Knight and the Pips).

Ron Oates is indeed one of the most talented and gifted all around musicians of our time. He truly knows how to bring a song to life, and has been a major part of the formula of success for many careers over the past 32 years. He is indeed one of ''. . . the boys who make the noise on 16th Avenue'' in Nashville, Tennessee.

Ron Oates is referred to by many in Nashville as ''Oatesart'' because of his incomparable style, arrangements and original interpretations of every music category.

Phelps said, ''Whether it is true-form country, contemporary, rock, children's music, classical, rhythm and blues or even Southern Gospel, he's the very best at bringing the best in music of any class.''

When the new $37 million Country Music Hall of Fame and Museum opened May 17, 2001, Ron was honored to be the first recording pianist/arranger to be included in the museum's permanent tribute to studio musicians. One of his famous keyboards and some of his hit arrangements are on display there. He is . . . ''One of the major creative forces behind an amazing list of hit records and millions of record sales.''

BURNHAM FILE COMPANY 100TH ANNIVERSARY

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. SHUSTER. Mr. Speaker, I rise today to congratulate the Burnham Fire Company for their 100th Anniversary and to thank them for their service and dedication to their community.

The Burnham Fire Company was started in September 1902 due to an overwhelming need for fire protection in their community. Until this time, the community relied on nearby cities whose fire departments could not respond as rapidly as needed due to the distance they had to travel. The company in Burnham was assembled of volunteers, a hand pulled hose cart, and a motto that described with incredible foresight what personal sacrifices must be made to be fire fighters. That motto is ''Semper Puratus,'' which means ''Always Ready.''

Since the tragedy that befell this nation on September 11th, America has rediscovered her many heros. Heros come from all walks of life and display every day how they, like the Burnham Fire Company, follow the motto ''Semper Puratus.'' They are the men and women that are always ready to put themselves at risk for the greater good of others. Volunteers who are always ready to unselfishly give of their time to serve their communities. Individuals who are always ready to contribute to the success of the team rather than striving for personal glory.

Burnham Fire Company still largely consists of a volunteer work force. These men and women are well trained and equipped, providing exceptional service to a community that is proud of thejob they have been doing for the past 100 years. I would like to again congratulate them on their 100th Anniversary and thank them for all their hard work and service.

TRIBUTE TO SUSAN HIRSHMANN

SPEECH OF

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Mr. CAMP. Mr. Speaker, I rise today to honor Susan Hirshmann as she gets ready to leave her post as the chief of staff to House Majority Whip TOM DELAY. Susan has proven to be invaluable and a trusted employee, friend and ally.

Susan Hirshmann is a remarkable individual who has become one the most important and influential women on Capitol Hill. She is highly respected by all who know her; and her comprehensive political grasp and policy expertise have set her apart as one of the greatest strategists in Washington. Susan has been an indispensable asset to Majority Whip's Office and the entire Whip organization.

For five years, she has been an advisor and top staffer, as well as a trustworthy ally to those who have worked with her.

Her intelligence and skill are complemented by a great sense of humor, which has made her contribution to this institution all the more praiseworthy.

We will all miss Susan, but we will always remember her hard work and steadfast devotion to this institution and her country.

JACK H. BACKMAN

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. FRANK. Mr. Speaker, last weekend, Massachusetts suffered a great loss. Indeed, when Jack Backman died, the world lost a man who was as fiercely dedicated to the cause of social justice as anyone of whom I have ever known.

My association with Jack Backman began in January 1973, when I became a freshman Member of the Massachusetts Joint Legislative Committee on Social Welfare, of which he was the Senate chair. I was proud to work under his leadership in those years for policies that would preserve some minimally decent life for the least fortunate among us. I have never worked with an elected official more willing to follow where his conscience led him with no regard whatsoever for electoral consequences than Jack Backman. And to my pleasant surprise and often to the chagrin of others, it turned out that when voters were presented with an example of someone prepared to do exactly that, they responded in a favorable way. Jack Backman genuinely brought out the best in democracy.

Mr. Speaker, in the Boston Globe for Tuesday, July 23, Renée Loth, Chief Editorial Writer, drew on her years as a reporter to give people a fair portrayal of this extraordinary man. I very much appreciate her doing this, in such a personal and compelling way, and because I think this model of how we Representatives should do our jobs ought to be widely shared, I ask that Ms. Loth's eloquent and accurate tribute to Jack Backman be printed here.

[From the Boston Globe, July 23, 2002]

JACK H. BACKMAN

(By Renée Loth)

I LAST SAW Jack Backman at a forum on women's issues at the University of Massachusetts in Boston in May. I told him the state could use him back in the Senate, where he had served for 16 years, and I meant it. Jack H. Backman, who died Friday at age 80, represented not just his constituents in liberal Newton and Brookline but an entire population of otherwise disenfranchised citizens: prisoners, mental patients, street people, drug addicts.

Concern for the less fortunate has become so marginalized in state politics that social spending is usually connected to a ''sympathetic'' interest group, such as children, or politically sophisticated groups such as the elderly or women. But Backman, whether in flush times or lean, represented causes for which there was no obvious political reward. With characteristic clarity, he once said he found it ''morally abhorrent'' that the dispossessed had no voice in government. So he gave them one.

During Backman's tenure in the House and Senate (1965 to 1987), Massachusetts was at the national forefront of social reform, much of it tied to his efforts. His legislation created the first Office for Children, the first lead paint removal act, and a guaranteed annual income for the blind and the disabled. He helped fund and implement the groundbreaking consent decrees that U.S. District Judge Joseph Tauro ordered to improve conditions at state facilities for the retarded. He led regular tours for freshman legislators of the state's maximum security prison in Walpole.

He pushed to pay welfare mothers a living wage, to divest state funds involved in the apartheid regime in South Africa, to deinstitutionalize juvenile justice, to give prisoners rights to education and training. He worked with a calm persistence some found maddening, using the Committee on Human Services (then called the Social Welfare Committee), which he chaired, as a pulpit for hearings on society's ills. He annually filed one bill—to appropriate $100 million in housing construction funds—for at least 11 years, mostly to illustrate the housing woes of the poor and the elderly.

Philip Johnston served for eight years with Backman on the Human Services Committee. ''He always took the view that it was his role and our committee's role to push the envelope on social justice,'' Johnston said. ''He felt that someone needed to articulate what was right and let others decide what was feasible.''

In 2002, elected officials are reviving the chain gang and charging prisoners a day rate for room and board. The Legislature just passed a budget that eliminates health care coverage for 50,000 low-income and disabled adults. We really do need Jack Backman—dreamer, believer, humanist, optimist—back at the State House. He was the rarest of politicians: someone whose heart was bigger than his ambition.

HONORING MR. JOHN SEIGENTHALER OF NASHVILLE, TENNESSEE FOR A LIFETIME OF OUTSTANDING ACHIEVEMENT ON THE OCCASION OF HIS 75TH BIRTHDAY

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. CLEMENT. Mr. Speaker, today I rise to honor my good friend John Seigenthaler, a great American and an outstanding Tennessean, on the occasion of his 75th birthday.

Throughout his career, Seigenthaler has been a consistent leader on free speech and civil rights issues and a staunch defender of patriotism and democracy. Because of his reputation for offering sound advice, he has served as an advisor to key national leaders including President John F. Kennedy, Attorney General Robert F. Kennedy, and numerous

statesmen and women including members of the U.S. House of Representatives and the U.S. Senate.

In 1949, Seigenthaler began his career as a cub reporter at The Tennessean in Nashville, Tennessee. Eventually, he rose through the ranks to become editor, publisher, and CEO of the newspaper where he worked for some 43 years. An award-winning journalist, he currently serves as the chairman emeritus of The Tennessean and at one time served as president of the American Society of Newspaper Editors.

Seigenthaler was named editorial director of USA Today in 1982, and served in that capacity for nearly 10 years. In 1991, he founded the First Amendment Center at Vanderbilt University in order to inspire and create a national dialogue concerning First Amendment principles. Today, as an independent affiliate of the Freedom Forum, the First Amendment Center is world-renowned for its innovative discussions and initiatives with locations in both Arlington, Virginia, and Nashville, Tennessee.

According to the First Amendment Center, it ''works to preserve and protect First Amendment freedoms through information and education.'' Further, the center ''serves as a forum for the study and exploration of free-expression issues, including freedom of speech, of the press and of religion, the right to assemble and petition the government.''

Seigenthaler played an integral role in civil rights history by serving as chief negotiator with the Governor of Alabama during the Freedom Rides of the 1960s, where he was attacked by a group of Klansmen for his efforts. Briefly during this era, he worked for the Justice Department under Attorney General Robert F. Kennedy.

He currently serves on the boards of trustees of The Freedom Forum and the First Amendment Center and hosts a ''A Word On Words,'' a weekly book review program which airs on public television stations throughout the nation.

Additionally, he serves on advisory boards of schools of journalism and communications at American University, the University of Tennessee and the University of Maryland, and a $3 million endowment has been made to Middle Tennessee State University (MTSU) for a First Amendment Chair.

His volunteer work also includes service on the 18-member National Commission on Federal Election Reform, and as a participant in the Constitution Project Initiative on Liberty and Security, which came about as a result of the Sept. 11th tragedies in New York and Washington.

Seigenthaler remains active on the national scene as well as in Tennessee, where he often works tirelessly, behind the scenes, on projects of benevolence for the betterment of the community.

Married to the former Delores Watson, the couple has one child, John Seigenthaler, of New York City, a weekend anchor for MSNBC networks.

Seigenthaler is to be honored for his leadership, courage, and compassion at this milestone in his life. His life's work has impacted the masses and will continue to influence generations to come.

PERSONAL EXPLANATION

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mrs. McCARTHY of New York. Mr. Speaker, due to a death in my family, I was absent for votes on July 18, 2002. Had I been present, I would have opposed H. Res. 489, supported the amendment offered by Mr. Moran (VA), and supported final passage of H.R. 5121.

I would have also opposed the previous question to H. Res. 488 and opposed H. Res. 488.

SENSE OF CONGRESS REGARDING OVARIAN CANCER

SPEECH OF

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Mr. WYNN. Mr. Speaker, I rise in support of H. Con. Res. 385, a resolution supporting research on tests used to screen for ovarian cancer.

Currently, among women in the United States, cancer of the ovary ranks fifth in the number of women affected.

Approximately half of the women with ovarian cancer die within five years. Therefore, the need to detect and treat ovarian cancer in its earliest stages is critical.

This resolution would express support for the National Institutes of Health to conduct or support research on the effectiveness of screening technologies to detect ovarian cancer. With improved technologies we will be able to better detect ovarian cancer in its initial stages.

H. Con. Res. 385 is about improving the quality of life of our loved ones—mothers, daughters, sisters, wives and friends. I urge my colleagues to support the resolution.

IN HONOR AND REMEMBRANCE OF DEVOTED FAMILY MAN, PAUL VOINOVICH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Paul Voinovich, devoted husband, father and grandfather, successful businessman, and trusted friend to many.

Following his graduation from Ohio University, Mr. Voinovich, followed in his father's footsteps by taking over the family architectural business, once known as the Voinovich Companies.

Mr. Voinovich was an intuitive and savvy businessman, and was highly adept at the art of the deal. He was a loyal colleague and business mentor to many, and a treasured friend as well. He warmly embraced life, and possessed a generous spirit. Mr. Voinovich was known to frequently help others in need, and did so in a quiet way away from the spotlight.

Mr. Speaker, Mr. Paul Voinovich will be remembered as a devoted husband, father and grandfather, and trusted friend to many. Although he will be deeply missed, his devotion to family, kind nature, generous spirit, and great zest for life will live on through all who knew him well.

CHILD STATUS PROTECTION ACT

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Mrs. MINK of Hawaii. Mr. Speaker, I rise in strong support of H.R. 1209—The Child Protection Act of 2002. Too many children of U.S. citizens and legal permanent residents are penalized under the Immigration and Nationality Act. Specifically, children of legal permanen't residents whose visa petitions are reclassified when their parents become naturalized citizens face prolonged delays due to their reclassification. Enacting H.R. 1209 makes sure that these children do not face such additional delays. It also ensures that the length of time it takes for INS to process petitions does not adversely affect children who are being petitioned from overseas to join their parents.

Under current law, when immigration visa petitions for children of permanent residents are moved from the second preference categories to first preference categories due to their parent's naturalization, they are faced with increased backlog for the new category, resulting in additional years of delay.

Many of my constituents in the second district of Hawaii face these tremendous obstacles in being reunited with their family. In one instance, the son of a legal permanent resident had waited 7 years to have his petition processed by INS under the second preference category. However, when his father became a U.S. citizen, he was reclassified to the FI preference category and reassigned a new priority date. Under the new date, it could take an additional decade for his petition to be processed! I have another case in which the children of a U.S. citizen mother have been waiting for over 13 years to be reunited with their parents because they were reclassified when their mother became a U.S. citizen. Ironically, if their mother had not become a citizen, they would already be in the U.S. with their mother!

Last year, I introduced H.R. 133 which amends the Immigration and Nationality Act to ensure that immigrants do not have to wait longer for an immigrant visa as a result of reclassification of their petition. I am encouraged to see that the version of H.R. 1209 on the floor today includes the same protection to assure that when the alien children are reclassified due to their parents' naturalization, they retain the same priority date assigned to them under the original visa category.

I also want to voice my strong support for provisions of H.R. 1209 that erase current ''age-out'' provisions in the law penalizing immigrant children of U.S. citizens. Under current law, when children of U.S. citizens turn 21 years of age, they ''age-out'' of their immediate relative status to the status of family-first

preference: the FI category. Unlike the immediate relative status that has no quota, this category is subject to a limited number of visas per year. These children are moved to the bottom of this wait list, which results in years of delays or even loss of eligibility to apply. H.R. 1209 would ensure that an alien child of a U.S. citizen does not age-out during the petitioning process by using the age on the application and not the age on the date the application is processed.

Finally, H.R. 1209 also expands the age-out protection to children of parents applying for refugee or asylum status and to children of legal permanent residents who are seeking status as a family-sponsored, employment-based, or diversity lottery child immigrant.

I urge my colleagues to vote for H.R. 1209 which corrects the delays caused by reclassification and helps many children of U.S. citizens, refugees, asylum seekers, and immigrants who are now denied entry as immediate relatives because they are over the age of 21.

IN HONOR OF JOAN ADLER GAUL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Joan Adler Gaul, tutor of special needs children, long-time volunteer, devoted wife and mother, and beloved grandmother.

Mrs. Gaul was born and raised in Cleveland's West Park Neighborhood. After receiving her diploma from St. Stephen High School, she worked briefly as an executive assistant for a railway company, then left to begin raising her eight children. Above all, her family remained the focal point of her life.

Mrs. Gaul warmly embraced life, and possessed a generous spirit. She channeled her talent, kindness and patience by volunteering her time to help special needs children. In addition, Mrs. Gaul was very active in her church, St. Angela Merici Catholic Church, where she was president of the Altar and Rosary Society. Her great enthusiasm and energy for life extended to her participation in many musicals produced by the St. Angela Players, and she also enjoyed golfing in the warmer months.

Mr. Speaker, Mrs. Joan Adler Gaul will be remembered as a devoted wife and trusted friend to many. Although she will be deeply missed, her legacy of caring, volunteer spirit, and great zeal for life, will live on through all who knew her well.

REASONABLE RIGHT-OF-WAY FEES ACT OF 2002

SPEECH OF

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Mr. CANNON. Mr. Speaker, Last evening, the House approved H.R. 3258, a bill sponsored by my friend and colleague from Wyoming, Mrs. CUBIN. I believe that the Reasonable Rights-of-Way Fees Act of 2002 is a significant and worthy piece of legislation, and I hope that the other body will act on it favorably before the end of the current Congress.

H.R. 3258 will ensure that the fees paid by telecommunications providers for the use of rights-of-way on Federal lands are reasonable. This is especially important in parts of the rural West like my district in Utah where it is difficult to deploy the long-haul facilities needed to connect small towns to the Internet and the public switched telephone network without at some point crossing Federal lands.

However, as good a bill as H.R. 3258 is, it is only a first step. The Federal Communications Commission (FCC) must strive across the board to attain a reasonable balance between government's need to manage public rights-of-way and industry and consumers equally important need to have non-discriminatory, inexpensive, and timely access to these rights-of-way for the deployment of critical telecommunications infrastructure.

Specifically, the FCC, in conjunction with Federal land management agencies, must take steps to ensure that:

(1) All telecommunications providers have non-discriminatory access to public rights-of-way for the purpose of providing intrastate, interstate or international telecommunications or telecommunications services or deploying facilities to be used directly or indirectly in the provision of such services;

(2) Government entities should act on a request for public rights-of-way access within a reasonable and fixed period of time from the date that the request for such access is submitted, or such request should be deemed approved;

(3) The fees charged for public rights-of-way access should reflect only the actual and direct costs incurred in managing the public rights-of-way and the amount of public rights-of-way actually used by the telecommunications provider;

(4) All telecommunications providers should be treated uniformly and in a competitively neutral manner with respect to terms and conditions of access to public rights-of-way;

(5) Entities that do not have physical facilities in, require access to, or actually use the public rights-of-way, such as resellers and lessees of network elements from facilities-based telecommunications providers, should not be subject to public rights-of-way management practices or fees; and

(6) Waivers of the right to challenge the lawfulness of particular governmental requirements as a condition of receiving any public rights-of-way access should be invalid.

I believe that, consistent with the Telecommunications Act, the Federal Communications Commission should vigorously enforce existing law and use expedited procedures for resolving preemption petitions involving access to public rights-of-way.

Expeditious removal of barriers to right-of-way access will help ensure that all telecommunications providers—incumbent local exchange carriers, competitive local exchange carriers, wireless carriers, and cable providers—can better deploy telecommunications services to the greatest number of Americans at reasonable costs.

I yield back the balance of my time.

IN HONOR OF IVAN MILETIC

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of esteemed author Ivan Miletic, who co-authored: From the Adriatic to Lake Erie. A History of Croatians in Greater Cleveland.

Through the research and writings of Mr. Miletic, an accomplished historian, and equally esteemed historians and educators—Dr. Ivan Cizmic and Dr. George J. Prpic— the public now has permanent access to understanding the significant impact that Croatian Americans have had upon the Cleveland community.

This important book chronicles the history and evolution of Croatian immigrants, and their individual and collective influence in the Northeast Ohio region—from the first wave of Croatian immigrants seeking opportunity and freedom, to modern-day Americans of Croatian descent—all of whom have added to the rich cultural fabric of Cleveland. Croatian Americans have positively defined, and greatly contributed to, all aspects of our community—from religion, culture and the arts, to politics and law, to education and the sciences.

Mr. Speaker, please join me in honor and tribute of author Ivan Miletic, who, along with authors Dr. Ivan Cizmic and Dr. George J. Prpic, have succeeded in the eloquent and adept historical account of Croatian immigrants, and their profound collective impact on all aspects of the Cleveland community. Moreover, as an American whose grandfather emigrated from Croatia, I am honored that my family, and my own public service, was noted in this book. The struggles, hardships and injustices that many immigrants have experienced, and overcome, are significant aspects of American history, that deserve an accurate and permanent historical account—to be learned from for generations to come—as is noted in From the Adriatic to Lake Erie: A History of Croatians in Greater Cleveland.

HONORING CONGRESSMAN JOHN BAYARD ANDERSON

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 2002

Mrs. MINK. Mr. Speaker, I rise today to honor our distinguished, former colleague John Bayard Anderson who represented the 16th District of Illinois for ten terms with great distinction.

I remember him well. John is bright, articulate, and thoughtful; a pleasure to have served with and an honor to know. He worked diligently not only for his constituents, but for the Nation as a whole.

In 1964, John was assigned a coveted seat on the Rules Committee. He introduced numerous bills on establishing better communication between and oversight of the various standing committees. He also diligently worked on campaign and election reform. In 1968 John was faced with a very difficult decision. His party, to which he had been very

faithful, wanted his support in the gutting of the civil rights bill. He switched his committee vote, and instead supported this critical piece of legislation. On the House floor, John stated ''I legislate today not out of fear, but out of deep concern for the America I love.'' I still remember these strong and moving words from my honorable colleague, and I am sure they echo in the minds of others as well.

In 1980 John made another tough decision: he was going to join the race for the White House. He began the race as a Republican, but ended it as an Independent. There were many who thought that John's decision to run was a very foolish one. But John was willing to take the risk because he firmly believed that he could do a better job than the others. Six million voters across the Nation believed in him.

I am sure that John is enjoying his tenure as Chair of the Center for Voting and Democracy. I am sure that as a former third-party Presidential candidate, John is able to provide a unique point-of-view. This race that he entered against all odds must serve as fuel to the fire in the campaign for runoff voting and forms of proportional representation as alternatives to winner-take-all plurality elections.

I would finally like to wish John a very happy belated birthday. May you enjoy many more.

ENVISIONING A NEW AMERICA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, on July 6th when I began the trip from Cleveland, I caught a glimpse of a misty rainbow, evanescent in a nearly cloudless western sky. It is one of nature's paradoxes that you do not need rain to have a rainbow. A many colored, broad spectrum reality can be perceived at any time if we train ourselves to look for that light. When a storm does occur, the rainbow is nature's gift. How brilliant is a rainbow against a very dark sky.

Hope informs us to look for light in all situations, under all conditions, in all persons, in all nations. How important it is at this time in our nation's history that we attempt to comprehend the light which shines in the darkness. How important it is that we grasp how a shaft of light can spring from the luminous nature of our own hearts and light a new path for ourselves, our loved ones, the nation we love and a world so in need of love.

Today, even as we celebrate the red, white and blue, our nation is bathed in the off colors of threat levels of conjured attacks. We are cautioned to be ever on the alert, to beware the stranger, to travel warily, to watch the crowds, to watch the skies. We are offered the strange solace of nuclear weapons we should never wish to use, missile systems which do not work, metal detectors, bomb sniffing dogs, war planes patrolling our major cities, the FBI marching parade routes and attending religious services. And we are told to have a nice day.

The projections of a menacing external environment breeds fear which percolates paranoia which becomes withdrawal and isolation.

Americans know intuitively fear is not our home. Indomitability fostered Independence. Courage created a Constitution. Fearlessness birthed freedom. Francis Scott Key's Star Spangled Banner gave insight into the American character when, in the closing lines he asked: ''Oh say does that Star Spangled Banner yet wave, o'er the land of the Free and the home of the Brave.'' Key made a connection between freedom and bravery. At Gettysburg, Lincoln declaimed we were ''conceived in Liberty'' and asked whether a nation so conceived could endure a Civil War.

It is worth asking today if a nation conceived in Liberty can long endure. A war on terrorism, where fear and democracy are at odds. It is worth contemplating the cost to liberty in the face of assertions that the only way we can protect our freedoms is to become more dependent on the armed power of government, or to give up some of our constitutional rights.

It is only courage which can meet the thief at the door or the terrorist in the crowd. It is only courage which gives us the ability to recite resolutely Lincoln's prayer that a ''government of the people, by the people, and for the people shall not perish''. It is only courage which can enable us to see with our heart the possibilities which still exist for America as the nation of our dreams, as a beacon of hope for the world.

So today let us begin the work of summoning all the love and courage we have in our hearts and send it out as a stream of brilliant light to lift the darkness which has dropped like a shroud over the consciousness of some of our countrymen and women.

Today let us envision a new role for America in the world. Let that vision be informed by the immortal intimations of our founders. Let that vision spring from our spiritual intuition. Let that vision be expressed in our every word. Let that vision leap from the golden chalice of our hearts. Let that vision be incarnated through our hands. Let us fashion a new nation through a new vision, filled with new hope from which new possibilities arise.

Let America begin anew in Afghanistan. Stop the bombing. We have no quarrel with the Afghan people. The Taliban are overthrown. Al Queda has fled. Bin Laden has vanished. And yet the bombs still drop, indiscriminately. Is there any American who has not been shaken at the mere thought of the horror of U.S. warplanes bombing a wedding celebration in the village of Kakrak, killing dozens of innocent civilians?

Whatever moral authority our nation had at the beginning of the conflict is rapidly being lost. This act does not represent America. Democracy does not wed terror. This act must not be cloaked in the irresponsible and inhuman euphemism of ''collateral damage''. Stop the bombing. Let an international police force continue in Afghanistan. Let the humble people of Afghanistan be spared friendly fire issued from skies. Enough of bombing the villages to save the villages! Stop the bombing!

Let America begin anew in Iraq. Stop planning for an invasion. The lives of a quarter of a million young American men and women must not be placed in jeopardy. Put a renewed emphasis on preventive diplomacy instead of pre-emptive strikes. Practice deterrence. Practice containment. Do not practice war in Iraq. Practice instead humanitarian aid to children who are dying because hospitals lack medical supplies. If Saddam Hussein would visit destruction upon his people let us not compound their woes.

Let America begin anew by putting an end to the Bomb as the ultimate metaphor. Let us lead the way towards the abolition of nuclear weapons. Let us set aside plans for a missile shield. Let us end the manufacture of new nuclear weapons. Let us stop the testing of nuclear weapons. Let us disavow any right to a nuclear first strike. Let us begin again to work toward nonproliferation worldwide and secure the goal of the Nuclear Nonproliferation Treaty which is a world free of nuclear threats. Let us put an end to the bomb as the ultimate metaphor.

Let America once again confirm its leadership and secure its position as a righteous nation among nations by fully participating in the global community through treaty-making and upholding international law. Let us reinstate the ABM Treaty, so that all nations who possess or would possess nuclear weapons can trust the United States will not try to gain advantage.

Let America fulfill a half century commitment to the use of outer space for peaceful purposes by setting aside plans to weaponize space and leading the way to ban all weapons in space, which is the purpose of HR 3616.

Let America commit to the Kyoto Treaty to protect this planet earth and to assure all nations that we recognize our responsibility to limit the production of greenhouse gases. In this we demonstrate an understanding of the interconnectedness of all life. In this we ensure the life of the planet far into the future. In this we show confidence in the future. In this we show a love of life.

Let America spare this planet and its people the scourge of biological and chemical weapons by leading the way toward world-wide agreement of the Biological and Chemical weapons conventions.

Let America commit itself to the Landmine Treaty and the Small Arms Treaty.

Let America pledge itself to justice everywhere by supporting the International Criminal Court.

Let us bring a new awareness to America. One which speaks and listens compassionately to those with whom we disagree. One whose power derives from the morality of our principles, not the armaments of our military.

Let America lead the way for a world at peace through inclusionary governance, upholding human rights, protecting workers' rights everywhere, assuring sustainability through enabling renewable energy resources to be brought forth.

Let America replace its principles of perpetual war with new organizing principles which protect the natural world, and affirm the interconnectedness of all life. Let us make nonviolence an organizing principle in our society through the creation of a Department of Peace.

Let us be the generation which began the work with people of all nations which leads to the day when war itself becomes archaic. ''Not to believe in the possibility of permanent peace is to disbelieve the godliness of human nature'' said Gandhi.

We can evolve. We can understand that war, violent death, the arms race, threats, terror, environmental destruction, adverse global climate change, corporate corruption, poverty, ignorance and sickness are not our ultimate destiny. Our eternal home is not eternal darkness. We are made for something better, a higher purpose, a higher calling here and now.

The world's ills represent conditions which are not beyond our understanding nor beyond our control, but which yield to human intelligence, the wisdom of the human heart and the aspirations of the human spirit.

As we face uncertain times, let us call upon our capacity for love. Let us call upon our capacity for hope. Let us call upon our capacity to believe in ourselves and in each other. Let us call upon our capacity to make a difference. Let us call upon our capacity to evolve as a nation. Let us call upon our recognition of the power of unity which brings us here, and which enables us to envision the America of our fondest dreams.

NEW HAMPSHIRE'S 2001–2002 VFW VOICE OF DEMOCRACY SCHOLARSHIP CONTEST REACHING OUT TO AMERICA'S FUTURE

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. BASS. Mr. Speaker, I rise today to enter into the CONGRESSIONAL RECORD, the speech written by the 2002 Veterans of Foreign Wars Voice of Democracy Scholarship winner, Clarissa Anderson.

REACHING OUT TO AMERICA'S FUTURE

(By Clarissa Anderson)

America, the beautiful country in which we live, has a future brighter than most may see. It is the country where many families raise their children, brave people reside, intelligent people create, scientists explore, and foreigners and citizens vacation. It is a country with immense power and glory behind its name, but the future of such a place is yet to be discovered. The future of the country that we love the most is what we will make it to be. It is up to us now, who are living here today, to make the history of America one that will make those who follow behind us proud of the ones who walked before them.

Many battles have been fought in the past to gain the freedoms we take for granted today, yet there are still battles to be won amongst America's own people. They are not battles over hate or differences, but they are rather battles over the hunger and the need of the people of whom we belong. The future of America lies within each American living here today. There are several civil topics that could be improved upon to make the future of our country one to be proud of.

While there are rich and famous stars making the latest movies, and the most well known scientists discovering, there are still ones on the street who are in need of homes, love, care, clothing, and jobs. The able-minded and able-bodied people of America should stand up and make this country proud by making it a better place for all to live, even the less fortunate. Volunteering an hour here or there to counsel a job searcher, to serve meals to the hungry, or even to show a little love and care to a child, can make a difference slowly, one step at a time, one life at a time, a little love at a time, and a little care at a time, we will slowly create the brightest age in America's history.

When Americans can truly say that the quality of living in America is better than any other country, America will have succeeded as a whole. When all Americans can feel protected not only by the laws and power of the country, but also by the care of its people, we will have succeeded. There are countless ways for a single soul to change or alter the life of another, if only a seed of compassion or care were sown within those who are able to give such things to others in need.

To the future of America I would like to offer a country full of helping hands, ones that will reach out to others in need. I would like to see men and women and children alike, not only caring for their circle of friends and for their families, but also assisting the people that are in need in their towns and communities. Our country has proven to be able to accomplish many great feats and this is one feat that can be achieved within the boundaries of our own country. To conquer such a challenge we need to set ourselves aside and lose all selfishness, putting our focus on others and their needs as well. While making our changes one heart at a time, one step at a time, and one life at a time, we'll be reaching out to the future of America. Our country will be all that we've dreamed it could be. America it's the beautiful country in which we live and as Americans, we should be proud of what we accomplish as a nation, one step at a time.

IN HONOR OF THE UNION & LEAGUE OF ROMANIAN SOCIETIES, INC.

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Union & League of Romanian Societies, Inc., on the occasion of their 96th Anniversary, to be celebrated in July, 2002, in Cleveland, Ohio,

In 1928, two separate Romanian organizations—The Union and The League—unified to become The Union & League of Romanian Societies, Inc. The organization continues to be one of the largest Romanian organizations in the United States, and has maintained its rich history and legacy of service to others.

For almost one hundred years, the members and leaders of the Union & League of Romanian Societies have offered a source of hope, faith, support and resources to American citizens of Romanian heritage, and Romanians abroad. The organization has undoubtedly been a great source of strength for thousands of Romanian immigrants, and fosters the continuity of Romania's significant cultural, religious and historic heritage.

The Union & League of Romanian Societies, Inc. has an impressive record of assisting and supporting Romanians in their homeland. In 1989, a Union & League Relief Fund was established to assist Romania in its economic and social reconstruction. In 1990, a Relief Fund was created with funds specifically earmarked for Romania's most vulnerable citizenry—its children and elderly. The Society continues to demonstrate support of its homeland—connecting the old world with the new—and never forgetting the sacrifices of ancestors who journeyed before them.

Mr. Speaker, please join me in honor and recognition of the Union & League of Romanian Societies, Inc., based here in Cleveland. Americans of Romanian descent have bestowed their professional talents, sense of community, and tradition and culture, within every facet of American society. Moreover, thousands of Americans of Romanian descent have made the ultimate sacrifice—giving their lives to protect the freedoms in their new American homeland, beginning with the Civil War. I stand in honor of the significant and noteworthy contributions and sacrifices that members of the Romanian community have made here in Cleveland, and across the nation.

PERSONAL EXPLANATION

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. ABERCROMBIE. Mr. Speaker, yesterday and this morning, I was unavoidably detained and I was unable to vote on matters before the House at the time. Had I been present, I would have voted:

Rollcall 324—H. Res. 439, Honoring Corinne ''Lindy'' Claiborne Boggs on the 25th Anniversary of the founding of the Congressional Women's Caucus ''yes''; Rollcall 325—H. Res. 492, Expressing Gratitude for the World Trade Center Clean-up and Recovery Efforts at Fresh Kills Landfill ''yes''.

IN HONOR OF 50TH ANNIVERSARY OF THE GARFIELD HEIGHTS BASEBALL LEAGUE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in recognition and celebration of the Golden Anniversary of the Garfield Heights Baseball League. I also stand in honor of the founding members of the League: Arthur Grugle, Dan Kostell and John Rawlins, and all the individuals over the past fifty years who have volunteered countless hours to ensure that the League remain a viable and significant recreational outlet for the youth of Garfield Heights.

The Garfield Heights Baseball League has the noteworthy distinction of being one of the oldest self-supporting leagues in the nation. Over the years, the League has grown and changed, reflecting our evolving society in many ways. Beginning with less than one hundred players, the League grew to over ninety teams playing on nine fields by the late seventies. Today, over 1,000 youth, both boys and girls are active players in the Garfield Heights Baseball League.

In 1987, the League formed the Garfield Heights Baseball League Hall of Fame. This honor is reserved for those individuals who have gone well beyond the normal call of duy in supporting or enhancing the day-to-day operations of the League, There are currently eighty-nine members in the Hall of Fame. In 1992, the League founded the Steve Huntz Alumni Award, named after the only League alumnus to play in the Major Leagues.

Mr. Speaker, please join me in honor, tribute, and celebration of the past and present leaders of the Garfield Heights Baseball League, for their fifty years of commitment to the youth of Garfield Heights. These leaders are the guardians of the most beloved and

historic game in American history, and because of them, the boys and girls in Garfield Heights will come to know the joy of fielding a ground ball, hitting the winning run, teamwork, and winning and losing gracefully. The Garfield Heights Baseball League has given its youthful ballplayers much more than the love of the game—they've given generations of kids an understanding of life's lessons in the form of a baseball game, and they've created cherished childhood memories that last from the early innings of childhood, to the bottom of the ninth, two down, tie score, bases loaded. Batter up.

ARTICLE ON REPRESENTATIVE MATSUI

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. RANGEL. Mr. Speaker, I would like to call your attention to the attached article on Rep. MATSUI featured in the Monday, July 22, 2002 edition of Roll Call entitled: Bob Matsui: the Democrats' Balancing Act.

Rep. MATSUI has been an outstanding and exemplary Member of the United States House of Representatives for 24 years. On the Ways and Means Committee, which I am privileged to serve as Ranking Democrat, Mr. MATSUI has been a stalwart protector of Social Security and a champion of expanding free and fair trade. It is with pleasure and pride that I ask that this article, which profiles his unwavering commitment and service to the committee, this august body, and the American people be included in the CONGRESSIONAL RECORD.

BOB MATSUI: THE DEMOCRATS' BALANCING ACT

(By Ben Pershing)

ROLL CALL—JULY 22, 2002 MONDAY

Try to get Rep. Robert Matsui (D–Calif.) to talk politics. You won't get very far.

After 24 years in Congress, he's no stranger to polls and tactics, and he's happy to explain why Democrats are better than Republicans. But he'd really rather talk about policy, which is why the current uproar over accounting practices and corporate governance suits him so well.

On an issue in which the politics are all about policy and reporters are writing breathless front-page stories about off-balance sheet partnerships, wonks can be weapons. And that's where Matsui comes in. As a senior member of the Ways and Means Committee, Matsui, who currently serves as ranking member on the panel's subcommittee on Social Security, has had to spend the past several years playing defense. He's expended most of his energy trying to combat Republican proposals, with little opportunity to advance his own.

But as he sees it, the current climate gives Democrats a chance to attack. And he doesn't think there is much the GOP can do about it.

''To some extent—and this is my belief,'' Matsui said in an interview last week, ''They are somewhat immobilized because they've received so much help from corporate America they really can't take them on in an effective way.''

AN OPPORTUNITY

Democrats have certainly received plenty of corporate contributions themselves and have also played a role in blocking reforms in the past. But Matsui thinks charges that Republicans are in bed with big business fit neatly into a long-established Democratic storyline, meaning GOP efforts to fight back will fall on deaf ears.

''Just like the public knows that the Democrats are better on Social Security and Medicare and the Republicans have historically been better on defense, they know that Republicans are beholden to the business community,'' Matsui said. ''Republicans can't change that, and for them to try to deny that would almost be counterintuitive.''

Matsui is part of a group of more than two dozen senior Democratic lawmakers—dubbed the ''extended leadership''—who meet in Minority Leader Richard Gephardt's (D–Mo.) office every day at 5 p.m. when the House is in session. Lately, ''business-gate'' has been a prime topic of discussion.

Democrats see the business scandals as a way to segue into their other top campaign issues—prescription drugs and, especially, Social Security. The Democratic Congressional Campaign Committee sends out daily press releases accusing GOP lawmakers of ''breaking the trust,'' and now Democrats charge that Republican plans for Social Security reform will take money promised to seniors and give it to those same scheming Wall Street brokers.

When House and Senate Democrats held a press conference July 12 to hit the GOP on corporate issues, Matsui's contention that ''Republicans have a secret plan to privatize Social Security'' was CNN's sound bite of the night.

Aside from pointing out that much of the corporate malfeasance now being spotlighted happened during the Clinton administration, Republicans also hope that the Democrats may go too far and paint themselves as the anti-business party.

Matsui is not particularly worried about a backlash because he is 100 percent convinced of the efficacy of Democratic policies.

''I think the business community knows that the Democratic Party has been essentially responsible for the growth in the economy in the last 50 years,'' Matsui said, echoing the common Democratic refrain that the current economic downturn coincided with the Republicans moving back into the White House.

MAN IN THE MIDDLE

Democrats believe it makes sense to deploy Matsui on the corporate scandals because he is seen as a relative voice of reason on the Ways and Means minority roster.

''He doesn't have a long list of sort of knee-jerk, anti-business stuff,'' said a senior Gephardt aide, arguing that Matsui's relatively moderate record on economic issues lends him added credibility.

Matsui is by no means the only—or even the most prominent—member of Ways and Means to focus on this topic. With Gephardt and ranking member Charlie Rangel (D–N.Y.) coordinating, committee Democrats such as Reps. Richard Neal (Mass.), Sander Levin (Mich.), Jim McDermott (Wash.) and Lloyd Doggett (Texas) have all carved out their niches.

Matsui's specialties are Social Security and trade, though he is comfortable with just about everything in Ways and Means' broad portfolio.

''He knows the subject well, but he also knows how to place it in a larger context,'' said Levin. ''He knows the forest and the trees.''

In terms of style, Matsui sits on the Ways and Means median. He gets less attention than Rangel, the party's political standard-bearer on the panel, and he is not as liberal as Rep. Pete Stark (D–Callf.), who is just ahead of Matsui and behind Rangel on the seniority list. But Matsui is also less inclined to cut deals with the GOP than someone like Rep. Benjamin Cardin (D–Md.).

''You look at those three, he always seems to play the middle,'' an aide to a GOP Ways and Means member said of Matsui vis-a-vis Rangel and Stark. ''You always have Matsui trying to sound like the voice of reason among those three.''

But the aide cautioned that, while Matsui is pragmatic and relatively easy for Republicans to deal with, ''don't let that fool you, He's very partisan.''

''There's something in between being low-key and being a table thumper,'' suggested Levin. ''He's in the middle.''

Matsui's most prominent policy role in the past several years has been on trade promotion authority, also known as fast-track. An avowed free-trader, Matsui whipped his fellow Democrats to support fast-track in 1993 and 1997, and he backed permanent normal trade relations with China in 2000.

But Matsui doesn't support the current version of trade promotion authority, arguing that it may give the World Trade Organization the power to undermine American domestic laws. The bill passed the House last December by just one vote, with only 21 Democrats voting in favor.

Rep. Jim Kolbe (R–Ariz.) worked very closely with Matsui on trade issues in the past when the two lawmakers were on the same side of the fight. But Matsui's more recent stances on trade bills have meant that, on a professional level, ''that relationship has become somewhat strained,'' said Kolbe, hastening to add that he still likes and respects Matsui personally.

''We miss him a lot on the trade issues. I wish we could get him back.''

AMBITION

With 12 terms in the House under his belt and a decent record of achievement, the 60-year-old Matsui could look to expand his horizons.

But, having been in the minority now for eight years, Matsui doesn't aspire to elected leadership and says his biggest goal is simply to become chairman of the Ways and Means subcommittee on Social Security.

Matsui is loyal to Rangel and won't even entertain a question about whether he would like to become Ways and Means' leading Democrat if the New Yorker leaves the House before he does (and there's no indication that Rangel is going anywhere in the near future).

Yet it's hard to imagine that Matsui wouldn't want the job given his love for the committee's work. And with Stark's well-documented history of outlandish remarks and unpredictable behavior, it appears unlikely that Democrats would ever hand him the top job on a major committee.

''I don't think there's any question that if Rangel leaves Matsui is the natural next candidate'' to run Ways and Means, said a senior Democratic leadership aide.

On the political front, Matsui has toyed with running for governor or the Senate in the past, but he points out now that the best way to run statewide in California is to shoot first for a position such as lieutenant governor, a job that he sees as far less attractive than his current post in the House.

Matsui also did stints as treasurer and deputy chairman of the Democratic National Committee in the '90s, and his wife, Doris, worked in the Clinton White House. But he'd still rather focus on substance.

''I enjoy the mechanics. When we had the trade issues and I was whipping it on behalf of the Clinton administration, I enjoyed that,'' he recalled. ''On the other hand, I really enjoy policy. It is my strength.''

IN HONOR OF BLACKIE HOWLETT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Blackie Howlett, United States Veteran, pilot, devoted husband, father and grandfather, and dear friend to many.

Mr. Howlett was born Jack J. Howlett II eighty-two years ago in his parents' home on Cleveland's Westside. After attending John Marshall High School, he attended Baldwin-Wallace College. During the 1930's, Howlett learned to fly open-cockpit planes here in Cleveland, from the Cosby Brothers, who were local stunt pilots.

Mr. Howlett was an expert aviator, and utilized his skills and knowledge for the protection and service of the United States. As a U. S. Marine, Mr. Howlett was part of the military crew that helped to build an airport in Kinston, NC. During that time, renown pilot Charles Lindbergh visited the base to train pilots. Mr. Howlett was one of Lindberg's students. Toward the end of WWII, he was stationed on Wake Island in the Pacific, as a Commanding Officer of the Marine detachment. Mr. Howlett accepted the surrender of Japanese troops on Wake Island. Later, he remained in the service and was in command of an airport at Osaka, Japan. Several years after WWII, Mr. Howlett left the military, and had achieved the status of Major.

After his imilitary tenure, Mr. Howlett joined Irving Cloud Publishing, where he founded Aviation Equipment and Maintenance Magazine. Later, he founded Howlett and Associates, a consultancy company, for aviation publications located around the globe. Mr. Howlett maintained his involvement and participation in aviation throughout his life. During his senior years, he founded the local chapter of the Silver Wings Fraternity, an organization comprised of senior pilots.

In addition to his passion for flying through the air, Mr. Howlett had a life-long interest in flying across the ice. He was an active speed skater in his youth, and was an original member of the Lake Erie Speed Skating Association. He also helped organize the United States Luge program, and was a team manager for the United States Luge Team in the Olympics. In 1989, Mr. Howlett was inducted into the Cleveland Sports Hall of Fame.

Mr. Howlett's beloved wife, Dorothea, passed away in 2000. He was the beloved father of Jeffrey, Carrie and Jennifer, and one grandchild.

Mr. Speaker, Mr. Blackie Howlett was an extraordinary pilot, accomplished businessman, dedicated citizen, and devoted family man. Mr. Blackie Howlett will be greatly missed by all who knew him well, yet his legacy of living life to its absolute fullest—a man who dared to soar where sunlight settles on the highest cloud, a man whose energy and spark belied a gentle nature—will live on for generations to come.

48 HOURS IN A CHINESE DETENTION CENTER

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. McGOVERN. Mr. Speaker, today I met with Daniel Pomerleau a student from Clark University in Worcester, Massachusetts. Last March, Mr. Pomerleau traveled to China to meet with fellow practitioners of Falun Dafa and to learn more about the Chinese government's persecution of its people. As a result of his interaction with Chinese citizens, Mr. Pomerleau was held in a Chinese Detention Center for nearly 48 hours.

Mr. Pomerleau gave me a copy of Clark University's WheatBread Magazine. The magazine has a detailed description written by Mr. Pomerleau of his experiences in China. I ask unanimous consent to have Mr. Pomerleau's article inserted in the CONGRESSIONAL RECORD.

Mr. Speaker, I am certain that the U.S. House of Representatives join me in thanking Mr. Pomerleau for bringing his story to our attention.

48 HOURS IN A CHINESE DETENTION CENTER

(By Daniel Pomerleau)

Three weeks ago, my older brother and I were detained in China for talking to people about Falun Dafa. I would like to share with you my experience in the article below. But before I do, I would like to briefly explain our reasons for going, as well as the current situation in the persecution in China.

We departed from Logan airport on Sunday morning, March 24. We split up in Vancouver, Canada, both of us heading in different directions; my older brother Jason to Hong Kong and myself to Beijing. We planned to meet in Beijing a few days later and travel by train through the Northeast of China.

We were traveling to China for similar reasons. We both wanted to expose the persecution of Falun Dafa to the Chinese people and share with them our personal experiences with the practice. We have experienced many first-hand benefits from practicing Falun Dafa and its principles of truthfulness, compassion, and forbearance. We couldn't understand how people could be tortured and killed for doing something as harmless as meditating and trying to be good people. Good people should not be treated like criminals.

While watching the persecution grind on for the past two and half years, we have been horrified by the accounts of harassment, extortion, torture, rape, and killing of Falun Dafa practitioners in Chinese prisons and labor camps every day. Over 150,000 people have been detained and physically abused, and nearly 400 have been tortured to death. Groundless propaganda is spewed out day after day by the Chinese President through all media outlets to vilify the practice and keep the death cases silent. As a result, the average Chinese person knows nothing about the deaths, and even less about the thousands of honors and proclamations bestowed on Falun Dafa outside of China. Because all the books about the practice are outlawed, they only know what's aired in the media. It's really sad. They are the biggest victims.

The Chinese president, the man responsible for this persecution, claims that Falun Dafa is detrimental to China's social stability and must be crushed at all costs. Why then is it proven to be so beneficial to the social stability of over 50 countries, where it has been practiced freely and peacefully for the past seven years? Why does the Chinese government say bad things about it while the other 50 countries and their people, with various types of cultures, religions, and governments, support it? What is the real motive behind this persecution? Is what the Chinese people hear everyday true?

My brother and I went to China simply to ask the Chinese people to think about these questions. We had no intentions of holding a protest or getting arrested, and we have no interest in political matters or attacking the Chinese government. We also weren't planning on creating a media hype. I was set on quietly returning home after a week or so of travel, and most of you would never have known I had gone if I hadn't been arrested. I felt that if I could talk to just one person and clarify the truth to them so that this person knew the truth about this persecution and no longer wanted to go along wit it, I would have accomplished what I had set out to do.

Unfortunately, however, I didn't make it very far.

I arrived at the Beijing International Airport at approximately 4:00 pm on March 25, and headed to a nearby subway station. I got off at a busy Beijing street with people on Bicycles bustling about. Remembering my purpose of coming to China, I took the opportunity to begin talking to a few people and hand them small pieces of information. Everyone I handed it to looked at it, read a few words, and exclaimed ''Oh, Falun Dafa! Thank you!'' They seemed very happy to be receiving such information from a westerner.

After talking briefly with about five people, a big ruffian approached me from behind, grabbed my arm and pulled me to the side of the street. I was immediately surrounded by several other men and couldn't move. The men had red bandanas tied around their arms and didn't identify who they were. One of them had the information I had handed out in his hand, so I knew who they were and what they were up to. They were thugs hired by the Chinese government to specifically arrest Falun Dafa practitioners. Most likely, they got an award for each new person they arrested. At that point, having read countless stories of the beatings and tortures that have occurred, I knew what I could be about to face. It was pretty scary.

When I tried to leave and continue on my way, they grabbed my luggage and didn't allow me to move. They seemed very nervous and didn't want the Chinese people on the street to know what was going on. Soon a police van came and about seven uniformed police began forcing me towards the van. At this point, I knew it was probably my last chance to do what I had come to China to do, so I called out as loud as I could to the huge crowd that had gathered around me ''Falun Dafa Hao!'' (Falun Dafa is Good). They looked stunned.

This was my first encounter with the viciousness of this persecution; for, as soon as I said those words, the police began slapping me in the face and kicking me in the legs to keep me quite. ''Falun Dafa is Good'' is the last thing they wanted the Chinese people to hear. As I continued to call it out to the crowd, I was picked up and thrown into the police van. The visors were closed and they continued to kick me to keep me silent.

I was taken to a nearby police substation, where I immediately asked to call the U.S. Embassy. They denied the request and instead took away my passport, airplane tickets, and wallet. Upon finding Falun Dafa information in my bag, they said I had broken the law and must be punished. I told them that they were the ones breaking the law. Their own constitution guarantees the right

to freedom of speech and belief, and the Chinese president was breaking the International Covenant of Human Rights by torturing and killing innocent people. They said that it didn't matter because I was in China and had to do what they said. I didn't agree. They began asking me many questions and kicked, slapped, and shoved me when I refused to answer. After about one and a half hours of interrogation, I was taken to a hidden detention center located in a parking garage.

The detention center had two cells in it. I was put into a cell by myself and my luggage was kept away from me. The cell was very dirty and the bed was covered in stains. Most of the policemen watching me were very young and had no interest in arresting me. They were just doing their jobs. I felt very sorry for them because of this. Upon reading the information about Falun Dafa that I had brought with me, they seemed shocked to see the pictures and read the information about the people who have been killed.

I was locked in the cell by myself for the next 45 hours until about 4:00 p.m., Wednesday the 27th. On different occasions, the guards tried to get me to answer several questions as to where I was from, who I traveled to China with, where I got the information I had brought with me, and if I had been in contact with anyone in China. I refused to answer any questions I thought could be used to distort the truth or used to hurt other people. They also tried to get me to sign a form several times, but I refused. On two occasions, the guards were very violent.

One of these times was in the afternoon on Tuesday the 26th. After being escorted to and from the bathroom, I asked them if I could do my homework (which I had brought with me from school). At this point, one of the guards became very angry and pushed me back into the cell. He punched me in the mouth and stomach, and kicked me down to the bed. I had a bloody lip for about 20 minutes.

The other time was in the morning on Wednesday, the 27th. When the guards were still asleep, I used a coin to write Chinese characters on the wall. The characters read 'Falun Dafa is good', 'truthfulness, compassion, and forbearance is good', and 'Falun Dafa is a righteous practice.' I signed it 'an American college student, March 27th.' I wrote the words because I felt it was the only way left I had to let the people who came into the detention center know why I was there. Upon waking up, the guards were stunned, and stared at the writing over and over again. Two hours later, they came into the cell and washed the words away, demanding that I leave the cell with them so they could take my photo and thumbprints. I refused. Again, I told them I was not a criminal and had done nothing wrong. I shouldn't be here, and they should be out on the street arresting people who commit real crimes and rob people. Two of them dragged me out at that point and began punching me in the head and kicking me in the torso. In the end, they were unsuccessful at taking my thumbprints or photo. Later in the day, one of the mean-spirited guards spit in my face after I told him he shouldn't persecute good people.

It was 24 hours before they asked me if I wanted any food or water. At this point, I went on a hunger strike for the remaining 24 hours of my stay. I told them that my detention was illegal and I would not eat or drink until I was released. I practiced the Falun Dafa exercises frequently to keep my energy up and the guards got very quiet and looked on intently as I went through the slow motion movements. Probably most of them were very intrigued to watch a westerner perform the exercises. There were always at least two guards on duty at all times, but there were frequently up to five or six at various times.

During the whole time, I tried to remain calm and put the principles of truthfulness, compassion, and forbearance into practice. For some of the guards, the ones that had a little bit of kind heart in them, it had a positive effect. After a while, they could see I was a good person and their consciences began to function. They were more open to what I said and didn't yell back in reply. They didn't want to have anything to do with the beatings.

At around 4:00 pm on March 27, the guards entered my cell and told me that it was time to leave. Upon walking out of the cell, I grabbed my luggage and was escorted into a police van with seven more uniformed police. I was taken to a place where they picked up my new return trip tickets, and then to the airport. At the airport, they drove the police van up to the plane itself so that I was not allowed to come into contact with any other people while in China. They treated me like a highly dangerous criminal. They most likely feared that I would tell the people I came into contact with that Falun Dafa was good and expose the beating I had received while in custody.

Though it was very brutal, what I experienced is nothing compared to what the people in China have been facing everyday for the past two and a half years; and they don't have a safe home to come home to. Hundreds of thousands are languishing in labor camps and detention centers all across the country where they are tortured with electric batons, beatings, sleep deprivation, and mind-altering drugs. If they refuse to sign statements to give up practicing Falun Gong, they are forced into brainwashing classes where they are barraged with hate propaganda designed to break their wills. The physical and mental suffering is unimaginable.

The day I arrived in China, there was a huge police sweep in the northeast city of Changchun. The police seep came after a state order from the Chinese President two weeks earlier to ''kill without pardon'' Falun Dafa practitioners who post information or expose the truth of the persecution to other people. The police were given a quota: five practitioners for every one policeman. In one day, over 5,000 people were arrested. Over the course of a single week, dozens have reportedly been executed.

The situation becomes increasingly urgent with each passing day, and is approaching the severity of Nazi Germany. Though I didn't get to talk to many Chinese people directly while in China, I am glad that at least more people here are aware of the situation. I hope that all kind-hearted people can offer any support that they can.

IN HONOR OF ALLISION McCORMACK

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of June Allison McCormack, community and political activist, successful businesswoman, beloved mother, grandmother, and trusted friend.

Mrs. McCormack was an extremely kind soul with a generous spirit, who was always looking for ways to help others. She traveled frequently to points across the globe, looking for ways to improve the environment for children living in impoverished areas.

Mrs. McCormack donated her time and money to several worthy charitable organizations, and encouraged others to do so. Instead of accepting holiday and birthday gifts from families and friends, she requested that they donate to the charity of their choice.

Besides her philanthropic work and commitment to volunteerism, Mrs. McCormack possessed a sharp sense for business, and successfully operated June McCormack Realty for 25 years, before retiring in the mid-eighties.

Mr. Speaker, please join me in honor and remembrance of June Allison McCormack, beloved wife of the late Earl Patrick McCormack, devoted mother of four, and devoted grandmother of ten. Mrs. McCormack leaves behind a legacy of a generous spirit and devotion to helping others, especially children, and she will be greatly missed.

FIGHTER PILOTS HONORED

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. MILLER of California. Mr. Speaker, I rise today to pay tribute to a group of individuals who did a great service to our nation. These men are fighter pilots from the Royal Australian Air Force and the New Zealand Royal Air Force who were assigned to US combat units and served as Forward Air Controllers during the Vietnam War. I would like to honor the following individuals:

ROYAL AUSTRALIAN AIR FORCE

Wg. Cdr. Col Ackland, Flt. Lt. Ray Butler, Fg Off. Peter Condon, Flt. Lt. Garry Cooper, Flg. Off. Mac Cottrell, Wg. Cdr. Vance Drummond, Flg. Off. Huck Ennis, Flt. Lt. Brian Fooks, Flt. Lt. Tony Ford and Flg Off. Frank Fry.

Flt. Lt. Dick Gregory, Flt. Lt. Jack Hayden, Flg. Off. Chris Hudnott, Flg. Off. Dick Kelloway, Flt. Lt. Chris Langton, Wg. Cdr. Peter Larard, Flg. Off. Chris Mirow, Flt. Lt. Ken Mitchell, Flg. Off. Bruce Mouatt, Sqn. Ldr. Graham Neil, Sqn. Ldr. Dave Owens, Wg. Cdr. Tony Powell, Sqn. Ldr. Rex Ramsay and Flt. Lt. Doug Riding.

Flg. Off. Dave Robson, Flg. Off. Barry Schultz, Flt. Lt. Bruce Searle, Flt. Lt. Ken Semmler, Flt. Lt. Arthur Sibthorpe, Flt. Lt. Ron Slater, Flt. Lt. Peter Smith, Wg. Cdr. Barry Thomas, Flt. Lt. Gavin Thoms, Sqn. Ldr. Nobby Williams, Flt. Lt. Roger Wilson and Flt. Lt. Bruce Wood.

NEW ZEALAND ROYAL AIR FORCE

Flt. Lt. Murray Abel, Flg. Off. Mike Callanan, Flt. Lt. J.M. Denton, Flg. Off. B.W. Donnelly, Flt. Lt. Ross Ewing, Flt. Lt. Graeme Goldsmith, Wg. Cdr. R.F. Lawry, Flt. Lt. Bryan Lockie, Fg. Off. Darryl McEvedy, Flt. Lt. Dick Metcalfe, Sqn. Ldr. John Scrimshaw, Flt. Lt. G.R. Thompson, Wg. Cdr. Wallingford and Flt. Lt. Peter Waller.

I would also like to recognize Lt. Col. Eugene Rossel and Flt. Lt. Garry Copper for actively pursuing decorations for these men who served our country in a time of need.

IN HONOR OF REVEREND GARY HOOVER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Reverend Gary Hoover, OSB, on the occasion of his 25th Anniversary of his profession of vows, on July 16, 2002.

Reverend Hoover, a Benedictine monk, has taught theology at Benedictine High School for the past eighteen years. He has recently been assigned to the position of Director of Alumni Affairs at the High School.

In addition to his new position and teaching duties, Reverend Hoover is the director of Campus Ministry, and is the chaplain for Benedictine's athletic teams.

Reverend Hoover continues to demonstrate his commitment and dedication to his faith, and to the students and families he serves. He is an integral part of what makes Benedictine High School an outstanding, faith-centered, educational institution.

Mr. Speaker, please join me in honor and recognition of Reverend Gary Hoover, on the occasion of his 25th Anniversary in the priesthood. Reverend Hoover's dedication, counsel, and teaching have enhanced and strengthened the entire Benedictine community.

TRIBUTE TO JEANNIE VAN VELKINBURGH

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Ms. DEGETTE. Mr. Speaker, Today, I join all of Denver in sorrow at the tragic loss of one our city's great heroines and in offering my heartfelt condolences to her sons, Joseph and Anthony. A person of great courage and selflessness, Jeannie Van Velkinburgh exemplifies the virtues Denver strives for.

On the night of November 18, 1997, Jeannie was shot and paralyzed while trying to prevent the murder of Oumar Dia, a West African immigrant living in Denver, who was attacked just because he was black.

Despite struggling everyday with her paralysis, Jeannie never regretted putting her own life at risk to try save the life of a stranger. Just last week she reiterated her conviction that she had done the right thing, saying, "You're supposed to help people when things are going wrong . . . If you walk away, how can you call yourself a good person?"

Everyone in our community can learn from Jeannie's legacy of love and respect for all people, regardless of their race, religion, or ethnicity. While her ongoing efforts to recover from the attack were so difficult, Jeannie remained an icon of the fight for equality. Esquire Magazine recognized her in 1998 as one of the "New American Heroes" for standing up for a man she had never met before. In 1999 she received the prestigious Hubert H. Humphrey Award from the Leadership Conference on Civil Rights for exemplifying Humphrey's legacy of selflessness and devoted service for equality.

The men involved in wounding her so deeply, both physically and emotionally, are now behind bars, but that does not mean the fight for justice is over. I urge all Denverites to follow her belief that, "we should stick together no matter what color you are."

For my part, I will continue to introduce and support legislation that will strengthen the regulations for purchasing assault weapons by working to close the "gun show loop hole". Furthermore, I will continue to work towards strengthening the penalties for hate crimes, the kind of crime that took the lives of both Jeannie Van Velkinburgh and Oumar Dia.

IN HONOR OF FRANCIS SCOTT CWIKLINSKI

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Francis Scott (Frank) Cwiklinski, U.S. Military Academy graduate, Persian Gulf War veteran, executive editor of the Cleveland State Law Review, and trusted friend to many.

Following his graduation from Valley Forge High School in 1985, Mr. Cwiklinski attended West Point Academy, and graduated in 1989. Following his college graduation, he served in the Army as a First Lieutenant during Operation Desert Storm. Mr. Cwiklinski worked on renovating rental properties in Cleveland's Tremont neighborhood prior to attending law school.

Besides writing for the Law Review, Mr. Cwiklinski was a columnist for The Gavel, the official newspaper of Cleveland-Marshall College of Law. He was ranked in the top ten percent of his class, and was scheduled to graduate this December.

Mr. Speaker, Mr. Cwiklinski's endless energy, quick smile, and friendly demeanor greatly enriched the lives of all who knew him, especial his family, friends and colleagues, and though he will never be forgotten, he will be greatly missed.

SERIOUS CRIMINAL DEEDS MUST BE PUNISHED

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. OWENS. Mr. Speaker, the massive suffering being inflicted on millions of employees and investors by corporate thieves is still difficult to comprehend. Members of Congress have a duty to clarify the murky "infectious greed" scenarios unfolding everyday. Stealing by very sophisticated means is still thievery. When an executive is granted a 400 million dollar loan, there is no way to explain it as a rational business decision. Congress must confront this dirty business by pushing harder for the confiscation of stolen money. We must establish a system for restitution to swindled employees, current and retired. And Congress must push for greater criminal penalties.

The very rich insiders must be forced to confront their crimes. Deprival of liberty by sentencing corporate crooks to prison is a necessary step to foster deterrence and restore confidence in our financial systems and markets. Already our constituents are ahead of the lawmakers in demanding justice. Those members who are soft on white collar crime will pay at the polls. It is the Great American Middle Class that is now being victimized. The following RAP poem summarizes their sentiment:

MESSAGE TO THE REPUBLICAN MOB

Before you merely mauled welfare mothers,
But now you're messing with
The Great American Middle Class;
We'll kick your rear!
Grandfathers are full of fear,
New anger after every tear,
Our pensions down the drain,
No shelter from old age rain;
O say Newt can you see
Pain and suffering you contracted for me?
Chisel swindle in the great greed spree,
Criminals still strutting free,
Lock up that mugger
With the 400 million dollar loan,
Tell the crook building that
Multi-million dollar home
You'll shoot if he lays another stone.
Stage a raid
On all the board room whores
Hiding behind fancy carved doors;
Bring out the hand cuffs,
Shine bright lights in haughty faces,
Drag them through drug pusher paces;
Grill Martha and the Hamptons crowd,
Make them confess
Early and loud.
Special prosecutors to the front lines.
In 2002 we have real crimes,
Whitewater was just kid stuff;
Let's play Harkin and Halliburton bluff:
At each turn
Take ten million and run—
Insiders have all the fun,
A tax break bonus
For each step you mount,
Ordinary dumb investors
Can't follow the count.
Chisel swindle in the great greed spree,
O say Newt can you see
Pain and suffering you contracted for me?
Before you merely mauled welfare mothers,
But now you're messing with
The Great American Middle Class;
At the November showdown
We'll be kicking your elephant (bleep)!

THE FINANCIAL MARKETS, SECURITIES AND ACCOUNTING INDUSTRIES HAVE CAUSED AMERICAN TAXPAYERS AND INVESTORS TO LOSE $4 TRILLION SINCE 2000

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. DAVIS of Illinois. Mr. Speaker, before Enron Corporation's bankruptcy filing in December 2001, the firm was widely regarded as one of the most innovative, fastest growing, and best managed businesses in the United States. With the swift collapse, shareholders, including thousands of Enron workers who held company stock in their 401 (k) retirement accounts, lost tens of billions of dollars. It now appears that Enron was in terrible financial shape as early as 2000, burdened with debt and money-losing businesses, but manipulated its accounting statements to hide these

problems. Now, WorldCom, the nation's second-largest long distance telephone company has been charged with fraud by the Securities and Exchange Commission. Reports have revealed that WorldCom defrauded investors by improper accounting practices for $3.9 billion in expenses during 2001.

We are discovering that publicly traded companies have contributed to bilking the American investors and taxpayers out of about $4 trillion since 2000 due to unaccountable financial filings, accounting errors, misinformation, and mismanagement of funds that has caused the financial markets to become unstable. Where are our watchdogs? They were nowhere to be found when it comes to integrity.

In order to ensure corporate accountability, we need to establish under the jurisdiction of the Securities Exchange Commission (SEC) ways to regulate accounting firms that audit SEC registrants (publicly trade firms). This type of structure could be empowered to charge registrants with annual fees to pay for the cost of staff to carry out the suggested plan of surveillance of auditors. This concept would intervene between a registrant and it's auditor before, during and at the end of an audit, it would be more effective than the current regulatory system in achieving:

An early warning of potential financial disasters such as Enron and WorldCom;

Requiring a change in auditors when the SEC deems it appropriate;

Require pre-approval of consulting engagements for a registrant to be conducted by it's auditor;

And, improve the format and content of financial and the auditor reports by including information about labor relations, research and development, marketing programs, and new products.

These are the kinds of things that must be done. Therefore, I have irtroduced on today a bill to establish an Office of Audit Review within the Securities and Exchange Commission to ensure the audits of certain public companies.

PERSONAL EXPLANATION

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. MALONEY of Connecticut. Mr. Speaker, I was absent on Monday, July 22, 2002, and missed rollcall votes No. 324, and No. 325. Had I been present, I would have voted Aye on roll call No. 324, and Aye on roll call No. 325.

RECOGNIZING THE U.S.S. ''SIERRA'' VETERANS ASSOCIATION'S RESOLUTION OF SUPPORT FOR OUR WAR AGAINST TERRORISM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. GILMAN. Mr. Speaker, I rise today to express my gratitude to the U.S.S. *Sierra* Veterans Association for their patriotism and support of our President, the Congress, and our armed forces as we wage our war against terrorism.

At the 14th Annual Reunion on September 28th 2001, the U.S.S *Sierra* Veterans Association passed a Resolution expressing their anger at the terrorists attacks of September 11, 2001 and voicing their support of the President and Congress taking appropriate action in combating terrorism. In addition, the association expressed their condolences for the destruction and loss of so many innocent lives following those barbaric attacks against the World Trade Center and the Pentagon, and over the skies of Pennsylvania.

It is important for us to recognize individuals and organizations that are expressing their patriotism, for just as we appreciate their support of our efforts to protect the American public, they must know that we appreciate their steadfast resolve towards fighting terror in their hearts and minds.

Accordingly, it is my privilege to present the house with the U.S.S. *Sierra* Veterans Association Resolution in support of our war against terrorism and assure them that their message has been received and that we will work diligently and act decisively to protect innocent American lives.

The Domain Of The Golden Dragon (Ruler Of The 180th Meridian) Invaded September 7, 1944

U.S.S. *Sierra* (AD 18) VETERANS ASSOCIATION

''THE SHIP WITH THE HELPING HANDS''

A RESOLUTION

Whereas: We of the U.S.S. *Sierra* [AD–18] Veterans' Association have gathered inn Portsmouth, Virginia on September 28, 2001 for our 14th annual reunion.

Whereas: We, United States Veterans, are very angry and disturbed over the terrorists'' attacks on the United States which occurred on September 11, 2001 with the resulting destruction and loss of so many innocent lives.

Be it resolved that we, U.S.S. *Sierra* Veterans, encourage and support our commander-in-chief, the United States Congress and those so delegated in all efforts to locate those individuals and groups responsible in any way for the tragic disruption of our security and freedom and to impose appropriate punishment in a timely and thorough manner.

THE 50TH ANNIVERSARY OF THE CONSTITUTION OF THE COMMONWEALTH OF PUERTO RICO

HON. ANÍBAL ACEVEDO-VILÁ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. ACEVEDO-VILÁ. Mr. Speaker, this Thursday, July 25, Puerto Rico celebrates the 50th Anniversary of the adoption of its Constitution as a Commonwealth. This Constitution established a unique relationship between Puerto Rico and the United States, which has enabled Puerto Ricans to preserve and promote our cultural identity, while guaranteeing our United States citizenship and protecting the values of liberty and justice that we share with all Americans.

This Constitution established a republican form of government, and provided for a broad Bill of Rights that followed both the U.S. Constitution and the Universal Declaration of the Rights of Man. This Constitution also provided for the election of all members of the legislature by the free will of the people. The ratification of the constitution by the people of Puerto Rico is the most significant democratic achievement for Puerto Rico in the 20th Century.

At the outbreak of the Spanish-American War, Puerto Rico already had a strong sense of nationhood and had achieved a high degree of autonomy under Spanish colonial rule. However, the initial U.S. rule on the Island, did not automatically bring democracy and progress for Puerto Rico. For decades Puerto Ricans continued to strive for autonomy and democratic rights. In 1917, the United States granted Puerto Ricans U.S. citizenship, but very little was provided to increase Puerto Rican participation in local government. In the 1940's, a new generation of Puerto Rican leaders sought a transformation in the relationship between the United States and Puerto Rico, in order to provide the necessary democratic tools for the economic, social and political development of the Island.

Leaders like Luis Muñoz-Marín, Antonio Femos, Jaime Benitez, and others, worked to pave the way for a new relationship between Puerto Rico and the United States.

In 1950, the U.S. Congress responded to Puerto Rico's claim to autonomy, by approving Public Law 600, which recognized the right of the Puerto Rican people to write and adopt their own constitution as a compact between the two nations. A Puerto Rican Constitutional Convention drafted the new Constitution, which was signed into law by President Truman and subsequently ratified by the overwhelming majority of Puerto Rico.

The Commonwealth is the result of a great generation of Puerto Rican and American leaders driven by a progressive vision and commitment to democratic values. President Harry Truman said: ''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 Puerto Rico are entering into a new relationship that will serve as an inspiration to all who love freedom and hate tyranny.''

The Commonwealth is based on the free will of the Puerto Rican people who have supported the commonwealth status in all 3 plebiscites celebrated on the issue to date. The majority of Puerto Ricans prefer commonwealth over statehood and independence because it is the only status that allows them to preserve and promote their cultural identity, while maintaining the benefits of their political relationship with the United States.

Commonwealth is the only political and legal arrangement that harmonizes two central aspirations of the Puerto Rican people. On the one hand, Puerto Rican's will to preserve their autonomy and promote their distinct national identity, and on the other, their desire to preserve their U.S. citizenship and ties with the Unites States. Both aspirations are realized under the commonwealth. Moreover, the pro-commonwealth movement represents the Puerto Rican center, accommodating two radically conflicting political forces: independence and statehood.

The Commonwealth is based on four pillars: (1) common U.S. citizenship, (2) common defense, (3) common currency and trade; and (4) fiscal and political autonomy.

Puerto Ricans treasure the U.S. citizenship. They believe it represents the values of our democracy, liberty and justice that they share with all Americans. Thousands of Puerto Ricans have fought with valor and died as U.S. soldiers in all armed conflicts since World War I, and today they are proudly fighting the war against terrorism.

The economic and social benefits of the Commonwealth have been extraordinary. Puerto Rico's economic transformation was led by Governor Luis Muñoz-Marín and his Popular Democratic Party. The economic development project named ''Operation Bootstraps'' combined government investment, education, training and tax-exemptions. Muñoz-Marín's leadership along with the U.S. government's assistance, transformed Puerto Rico into a modern and competitive country.

Puerto Rico's fiscal autonomy has been crucial to these achievements. Fiscal autonomy means that for tax purposes Puerto Rico is considered a foreign jurisdiction. This tool allows Puerto Rico to collect its own taxes, set its own fiscal priorities, and compete effectively with other foreign jurisdictions. Although U.S. residents in Puerto Rico do not pay federal income tax, they do pay federal payroll taxes.

The Commonwealth's success has been very beneficial for the United States as well. Today, Puerto Rico is the #1 per capita consumer of U.S. products in the world; and the 9th largest market for U.S. goods in the world. In 1999, Puerto Rico purchased $16 billion worth of U.S. products, which translates into 320,000 jobs on the mainland.

Today, the overwhelming majority of Puerto Ricans live a better life thanks to the Commonwealth. Moreover, in my view, commonwealth status was ahead of its time. The commonwealth is a pragmatic model capable of dealing with real problems; it is flexible and adaptable to the new global context. In fact, contemporary political theorists and scholars have recognized the benefits of an autonomous arrangement such as the Commonwealth of Puerto Rico. In the new world order, traditional concepts of political theory such as sovereignty, state and citizenship have changed and become more flexible. The focus today is on cooperation, integration and openness.

As anticipated by its creators, the Commonwealth may be continuously improved and enhanced. Under an enhanced commonwealth, Puerto Ricans have a prosperous future ahead.

The view that Commonwealth is the best alternative for the island is shared by the majority of Puerto Ricans. Statehood has never been favored in any plebiscite on status. Independence today has less than 5 percent of support. The Commonwealth was chosen by the voters in 1952, and it has been favored in every plebiscite since—in 1967, 1993 and 1998.

That being said, the issue is not settled and Puerto Ricans are still divided. It is important to understand that in the 1950–52 process, Puerto Rico exercised, but did not exhaust its right to self-determination. In other words, Puerto Rico still preserves its fundamental right to self-determination.

In fact, one of the primary obstacles to any process to deal with the status of Puerto Rico has been a fundamental lack of agreement as to which mechanism would allow the people of Puerto Rico to reach a decision on this matter in the fairest manner possible.

Puerto Ricans believe that Congress will respect their expressed will. But Congress will respond only if we come to Washington with one voice, as a people. If we come divided, as in tribes, history has taught us, nothing will be accomplished.

To deal with this persistent obstacle, Governor Calderón have invited all three political parties in Puerto Rico to join in a process to reach a consensus as to the procedural mechanism we should follow, and will soon announce the formation of a Commission of Puerto Rican Unity and Consensus.

This Commission will be composed of equal numbers of representatives of Puerto Rico's three political parties, as well as a number of renowned jurists and other eminent private citizens, selected by the three parties in consensus. The Commission will then seek to reach non-partisan consensus on the procedure to be followed in future status discussions.

Notwithstanding this historic non-partisan process proposed by the Governor, I must tell you that the overwhelming majority of the people of Puerto Rican respect and cherish our Commonwealth constitution.

To further explain my views on the present and future of the Commonwealth and the need of a new Puerto Rican consensus, I am submitting for the RECORD a speech that I gave on April 26, 2002 at Harvard's JFK School of Government.

This week all Americans ought to celebrate the 50th Anniversary of the Constitution of the Commonwealth of Puerto Rico, not only because for the extraordinary achievements of the past 50 years but also for the bright future of growth that we have ahead.

INTRODUCTION OF THE RETIREMENT SECURITY FOR ALL AMERICANS ACT

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. POMEROY. Mr. Speaker, I rise today to introduce the ''Retirement Security for All Americans Act,'' legislation that will help all of our nation's workers save for their retirement. Sen. JEFF BINGAMAN (D–N.M.) has already introduced a companion bill in the Senate, and I am proud to sponsor this bill in the House.

Although there are several ways to measure pension coverage, there is one constant statistic—less than half of the workers in our country are covered by an employer sponsored pension plan. In spite of numerous incentives provided by Congress over the years, this coverage rate has remained virtually unchanged for the past three decades. In my home state of North Dakota, the plan participation rate is lower than the national average. Only 41 percent of workers participate in a retirement plan in the state. Therefore, about 60 percent of North Dakota's workers are without coverage and will have to fund their retiremnent through personal savings and Social Security. Unfortunately, most private sector workers who do not have a pension or retirement plan will not have significant savings, leaving them only with Social Security as their main source of income in retirement.

The legislation I am introducing today addresses this need by encouraging small- and mid-size employers, where pension coverage is severely deficient, to not only offer plans, but to provide contributions to their lower paid workers. Each of these provisions standing alone would improve coverage and our national savings rate. Combined, they strongly complement each other making passage of this bill imperative.

The first provision expands and makes permanent the current Savers' Credit that was signed into law last year. Currently, married couples earning less than $30,000 are entitled to a credit of half their retirement plan contribution. Those with income between $30,001 and $32,500 are eligible for a 20 percent credit, and a 10 percent credit is available for those with incomes above $32,500 and less than $50,000.

This bill would gradually phase the credit rate down for marricd couples with incomes between $30,000 and $55,000 and other filers with incomes between $15,000 and $27,500, eliminating the cliff-like structure of the current credit.

North Dakotans will greatly benefit from this provision. The average median household income in North Dakota is about $35,000. Over one-third (38 percent) of households in the state have incomes of less than $30,000. Workers in these households will receive $.50 for every dollar that they save in their 401(k) or IRA. An additional 34 percent of households in North Dakota have incomes between $30,000 and $50,000. Workers in these households will receive between $.10 and $.20 for every dollar that they save in their 401(k) or IRA. This additional money will help North Dakotans, and especially baby boomers, plan for their retirement.

The second provision of the bill requires all employers with more than 10 employees, who do not currently offer their employees a qualified retirement plan, to provide their workers with the option of a payroll deduction IRA. A payroll deduction IRA will allow workers to save small amounts out of each paycheck instead of making periodic or annual contributions to an IRA. This savings mechanism is desperately needed among workers and small employers who cannot afford to establish pension plans. To offset any administrative cost, a tax credit of $200 for the first year and $50 for subsequent years is provided to the employer.

The final section incorporates the Senate passed provision that was eliminated in the Economic Growth and Tax Relief Reconciliation Act of 2001 conference that provides small businesses with a tax credit for their contributions to the retirement accounts of their non-highly compensated employees. This should not only encourage many employers to offer a plan for the first time, but also create a noteworthy incentive to contribute to these employees' accounts.

I look forward to working with my colleagues to bridge this gap in pension coverage in our country. We must continue to advance proposals that will make meaningful improvements. I know this legislation is needed in North Dakota, and I hope my colleagues will join me in passing this important legislation.

COMMENDING THE TROOPS AT U.S. NAVAL BASE GUANTANAMO BAY

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. LANGEVIN. Mr. Speaker, I rise today to pay tribute to the patriotism of 100 of my fellow Rhode Islanders, who are members of the 43rd Military Police Brigade of the Rhode Island Army National Guard. As I speak, these fine men and women are deployed to U.S. Naval Base Guantanamo Bay in Cuba, where they are part of Joint Task Force-160. The mission of Joint Task Force-160 is to oversee the care, custody and control of the detainees who have been apprehended by United States and international forces in the global war on terrorism. The 43rd Military Police Brigade is serving as the core staff and headquarters for the entire Joint Task Force, as well as providing critical security requirements for Camp Delta, where the detainees are being held. Additionally, they support the efforts of Joint Task Force-170, which includes both the FBI and the CfA, who are handling interrogation of the detainees. In deploying to Guantanamo Bay, they have been reunited with their commander and fellow Rhode Island Guardsman, Brigadier General Rick Backus, who became the Task Force Commander in March of this year.

U.S. Naval Base Guantanamo Bay is over 45 square miles and is not only the oldest U.S. base overseas but it is also the only one in a Communist country. It is located on the southeast corner of Cuba, and is about 400 air miles from Miami, Florida. For these Guard members it is home because it is where their country needs them to be. They are an integral part of the 1,700 members of Joint Task Force-160, made up of servicemen and women from the Air Force, Army, Navy, Marines and Coast Guard, and they are all unsung heroes of the war on terrorism.

The 43rd Military Police is a mobilized National Guard unit from my hometown of Warwick, Rhode Island. They recently made history when, on May 20, 2002, they became the first National Guard unit to assume the role of a joint task force command. Clearly this demonstrates the ability of the National Guard to seamlessly transition into an active duty command. This complete integration of a National Guard Unit into a Joint Task Force is a tribute to both the National Guard Bureau and the U.S. Army.

A member of my staff recently had the privilege of visiting these Guard members at Guantanamo. He told me that it was impossible not to be struck by the professionalism and dedication of these men and women. Their morale is excellent, despite the incredibly stressful task they have. They make every daily decision, which affects the lives of 1,700 troops and 564 detainees, and they are our next-door neighbors. They are accomplishing something they have constantly prepared for but never imagined would become reality in this way. They have been assigned an awesome challenge and have risen to the occasion.

In recognizing these members of the Rhode Island National Guard, I also want to acknowledge the outstanding support that they receive from their families and their employers. Most of these Guard members are traditional members, or ''weekend warriors'', as they are often known. Many are self-employed or hold critical positions in their companies. The extremely unique demand of this war on terrorism is a duty that is shared by employers and employees alike. Many Guard members expect to be away from their families and jobs for four months, which could impose a significant financial and psychological burden on members at a time when they need to be functioning at 100 percent. The support they receive is critical to the success of their mission.

I am proud as an American and a Rhode Islander to recognize this partnership in patriotism displayed by the guardsmen of the 43rd Military Police Brigade, their families and their employers in their deployment as part of Joint Task Force 160.

LEAP AWARD WINNERS IN ORANGE COUNTY

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Ms. SANCHEZ. Mr. Speaker, Today I rise to honor Chongge Vang and Debbie Barba for their leadership and dedication to the Asian community of Orange County.

Debbie, a third generation Japanese-American, worked her way up from telephone operator to Vice President of Local Operations for Pacific Bell. During her tenure, she provided a wonderful example to others in our community by returning to school and working to obtain her undergraduate degree from the University of Redlands.

Chongge Vang fled Laos in the late 1970's after fighting alongside the American CIA in a secret war. Since his arrival in Orange County, he has helped countless members of the Hmong community to become U.S. citizens and receive health care and other social-service support.

A modest man, Vang considers himself more of a helper than a leader. He stated that he became a leader only because others did not answer the call.

The Leadership Education for Asian Pacifics organization has recognized these two leaders. I would like to personally thank them for their hard work and the positive example they set for others in my district.

KEEPING CANADIAN TRASH OUT OF MICHIGAN

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. BONIOR. Mr. Speaker, our state is a cathedral—not a dumping ground for Canadian trash.

For nearly 30 years, those of us in Michigan have taken responsibility for our own trash.

In the early 1970s, I worked with my colleagues in the State Legislature and the Michigan United Conservation Clubs (MUCC) to make Michigan the first industrial state in the nation to enact a bottle bill.

Michigan families wait in line to return their bottles and cans, meanwhile people in Canada and other states throw them in the garbage and truck them into our state. It is long past time to enact a ban on imported trash.

I introduced the first bill to allow local communities the ability to say ''no'' to out-of-state and Canadian trash in 1989 and passed it through the House in 1994—only to have Republicans block it in the Senate.

Today, Representative ROGERS offers an approach that many of us have been talking about for some time. We need to stop these trash trucks at our bridges and make it as difficult as possible for them to do business in Michigan.

Ensuring our border agents do not use their scarce resources to facilitate the flow of trash from Canada is a good first step, but we need to do more. We need to enact the Bonior-Dingell-Doyle-Greenwood-Upton legislation, which would allow local communities to ban out-of-state and Canadian trash.

I commend Representative ROGERS for drawing attention to this critically important issue for Michigan's families and look forward to working with him to enact a permanent ban on imported trash.

TRIBUTE TO ANN MORGAN, U.S. BUREAU OF LAND MANAGEMENT'S COLORADO STATE DIRECTOR

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to the Ann Morgan, the State Director of the Colorado Office of the U.S. Bureau of Land Management—the BLM. Ann will be leaving this position this week, after nearly five years of distinguished service in that demanding job.

Ann started as Colorado State Director of the BLM in October 1997. In our state, the BLM manages 8.4 million acres that include the full range of Colorado's diverse land forms, from forested areas, to river corridors, to red rock plateaus and open range expanses along the western slope. Managing these varied landscapes presents many challenges. Important balances must be struck between those that wish to use these lands for wildlife protection, open space, recreation, mineral development, grazing, timbering and oil and gas extraction.

As State Director, Ann had to work with the diverse interests to strike that balance. Her approach was to work for the kind of community-based partnerships that are so important for true multiple-use management. An example of this is the Colorado Outdoor Recreation Roundtable, where Ann was an active member. She also served as a co-chair of the Colorado Environmental Partnership, and has been an advisor to the University of Colorado Natural Resources Law Center. She also encouraged BLM to work across jurisdictional lines with the U.S. Forest Service and Colorado State Parks to better manage these lands and serve the public.

Ann recognized the value in conserving landscapes so that today's and future generations of visitors can enjoy the beauty and recreational potential of these public lands. To that end, she has helped build support for and

increased the size of National Landscape Conservation System units. Working with the Colorado Congressional delegation, she was instrumental in the designation of the Gunnison Gorge and Colorado Canyons National Conservation Areas and the designation of wilderness areas within those NCAs.

Through her leadership and the good work of the BLM employees, important guidelines are in place to make sure that recreation, grazing and other uses do not negatively impact our public lands. These guidelines help underscore that the environment can be protected in concert with economic benefits that inure to communities by these resources and activities.

She also helped BLM make important strides toward integrating fire into overall land management. Today, the Colorado BLM has in place state-of-the-art Fire Management Plans, which utilizes naturally ignited fires to meet resource objectives. She has also helped create local community support for the BLM's fire program, and helped local communities develop fire management plans.

She has also been helpful on wilderness protection. She demonstrated strong leadership when she agreed to re-evaluate areas that contained wilderness characteristics to determine if the management of these areas should be revised to protect their wilderness values. She also was a supporter of the BLM's Colorado policy of providing interim protection of areas that have been proposed for wilderness in order to give Congress the flexibility to determine this ultimate disposition of these lands.

Before coming to Colorado, Ann served three years as BLM's State Director in Nevada, where she concentrated on developing standards and guidelines for rangeland health, improving the quality and timeliness of hardrock mining environmental analysis, and securing strong working relationships with local governments in a state where the BLM manages 67 percent of the land.

Before embarking on her BLM career, Ann was manager of the Washington State Department of Natural Resources Division of Aquatic Lands. There she was responsible for the multiple use management of more than 2 million acres of state public lands. She directed leasing, resource inventories and harvesting, public access and recreation, habitat protection and restoration, and statewide aquatic lands enhancement programs. Prior to that she managed engineering and construction projects for geothermal power plants for the Pacific Gas and Electric Company.

Ann will be moving on to work on public land and environmental issues with, the Natural Resources Law Center at the University of Colorado Law School in Boulder, Colorado. She also will be working with the U.S. Institute for Environmental Conflict Resolution on special projects. At these positions, I know that she will have an opportunity to continue to make important contributions to public lands management. Her experience and expertise will help these organizations better understand and respond to natural resource issues.

I wish her well in these endeavors and ask my colleagues to join me in thanking her for her dedicated public service to Colorado and the nation.

SALE OF ISRAELI ARROW WEAPON SYSTEM TO INDIA

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. PALLONE. Mr. Speaker, I rise on the House floor this evening to discuss the sale of the Israeli Arrow Weapon System to India.

According to several reports, Mr. Speaker, there is support within the Pentagon and support from Israel to make the sale of the Arrow Weapon System a reality. However, Secretary Powell and the State Department are preparing to express objection to India's purchase of this missile defense system from Israel, due to the current military standoff between India and Pakistan.

I sent a letter today to Secretary Powell, requesting that the Secretary not delay or oppose India's purchase of this missile defense system from Israel.

I strongly believe that the State Department's support for the Arrow Weapon System sale to India would further solidify the new defense relationship between the United States and India. For the past several months, the U.S. and India have participated in numerous joint military exercises which have fostered a strong defense relationship between the two countries, which share democratic interests and have been working together well against global terrorism.

In addition, the Arrow Weapon System was created to defend against short-range and medium-range ballistic missiles. Therefore, Mr. Speaker, India's interest in the Arrow Weapon System is to improve missile defense, not offense, which is a key factor regarding this sale that needs to be considered.

There have also been reports that indicate that India is preparing to buy parts from the United States for military equipment such as helicopters, jets and radar systems. The sale of this equipment was initially delayed due to sanctions imposed on India in May 1998. Those sanctions have been lifted for nearly one year and I requested that the sale of this equipment not be delayed as well due to the current situation between India and Pakistan.

Mr. Speaker, I am hoping that during Secretary Powell's trip to India this week, he will voice approval of this Israeli sale to India. This is a positive step for U.S.-India relations and because of the defensive nature of this defense system, the U.S. should not delay this sale due to the conflict between India and Pakistan.

JULY 23, 2002.

Hon. COLIN POWELL,
Secretary, U.S. Department of State,
Washington, DC.

DEAR MR. SECRETARY: I am writing today to urge you not to delay the sale of the Israeli Arrow Weapon System to India.

According to several reports, there is support within the Pentagon and support from Israel to make this sale a reality. However, I understand that during your upcoming trip to India, you are preparing to express your objection to India's purchase of this missile defense system from Israel, due to the current military standoff between India and Pakistan.

I strongly believe that the State Department's support for the Arrow Weapon System sale to India would further solidify the new defense relationship between the United States and India. For the past several months, the US and India have participated in numerous joint military exercises which have fostered a strong defense relationship between the two countries, which share democratic interests and have been working together well against global terrorism.

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I am hoping that during your trip this week, you will voice approval of this Israeli sale to India and I thank you for taking my views into consideration.

Sincerely,

FRANK PALLONE, *Jr.*

HONORING THE DISTINGUISHED CAREER OF BOBBY LEE THOMPSON

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. GORDON. Mr. Speaker, I rise today to recognize the outstanding career of Bobby Lee Thompson, who recently retired as the United Auto Workers Region 8 director. Bobby Lee served as the Region 8 director for more than 11 years and served the UAW for 48 years.

Bobby Lee began his nearly five decades of service to the UAW when he was hired as an assembler at the General Motors assembly plant in Wilmington, Delaware, on January 11, 1954. He served in numerous capacities with the union, including president of UAW Local 435 and as an international representative.

Bobby Lee has been a tremendous advocate for the working man and woman in the auto industry. His hard work and dedication to the UAW has earned him many accolades. He has even earned international recognition as an advocate for workers in the field of independent arbitration. Bobby Lee has also taken an active and appreciated role in numerous Middle Tennessee community organizations and boards.

His leadership and vision at the UAW will be sorely missed. I congratulate Bobby Lee on his outstanding career and wish him well in his retirement.

TRIBUTE TO THOMAS J. DOUGHERTY, NATIONAL WILDLIFE FEDERATION

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to and acknowledge the

outstanding work of Thomas J. Dougherty, a Senior Advisor with the National Wildlife Federation. Tom will be retiring at the end of this year after serving 18 years with the National Wildlife Federation and decades of work on environmental and wildlife protection efforts.

For over a quarter century, Tom Dougherty, who now lives in Loveland, Colorado, has worked to protect wildlife and its habitat on behalf of conservationists and the Wyoming and National Wildlife Federations. Tom's passion and talent for protecting wildlife first appeared in 1983, when Tom, then president of the Wyoming Wildlife Federation, roused the State of Wyoming and its legislature to pass an instream flow law. That law recognizes that leaving water in the stream for the sake of fish and wildlife is a legitimate and beneficial use of water.

About the same time, and on much drier ground, Tom began a campaign which found its way to the national evening news and into the courts. Tom dedicated himself to getting rid of a rancher's lethal twenty-eight mile fence, which blocked antelope from reaching their crucial winter range on Red Rim in south-central Wyoming. Thanks to Tom (with an assist from NBC Nightly News and the federal courts), the five foot high mesh wire fence, which was impenetrable to antelope, was completely removed, saving antelope from starving to death in severe winters. Several years later, Tom helped the Wyoming Game and Fish Department acquire the private lands on Red Rim so the Department and the Bureau of Land Management could manage those lands as The Red Rim Wildlife Habitat Management Area.

In the later 1980s Tom moved to the National Wildlife Federation's office in Boulder, Colorado, where he eventually became Western Staff Director. At this position, he worked with Representatives Pat Schroeder and Wayne Allard, the City of Denver, the United States Army, Shell Oil Company, the State of Colorado, and the United States Fish and Wildlife Service to designate the Rocky Mountain Arsenal as a National Wildlife Refuge—an unusual urban wildlife refuge. Tom's advocacy for the new refuge and talent for bringing people together to fight for wildlife were becoming nationally known.

That recognition may help explain his participation in the early 1990s of efforts to reform the grazing of livestock on our public lands. When then Secretary of the Interior Bruce Babbitt was embarking on reform efforts, heated controversy in the west naturally ensued. The Secretary, in order to forge a compromise, turned to Colorado, where Governor Roy Romer was working to bring all sides together to develop a workable slate of reform proposals. Governor Romer included Tom in these efforts as he knew of Tom's ability to work with all sides, understand the concerns of the ranchers, and bring a spirit of collaboration—along with a passion for protecting the sustainability of the land for livestock and wildlife. When that effort expanded through Secretary Babbitt's participation, the Secretary and Governor Romer included him in the grazing roundtable that ultimately lead to new grazing regulations. Once again Tom's talent for bringing diverse interests together for the sake of wildlife was making a big difference on the ground.

While Tom was working on the Arsenal Refuge and Red Rim, there was a sound absent from Yellowstone National Park. Now, you might be lucky enough to hear a wolf howl in Yellowstone, and if so you owe some thanks to Tom Dougherty. He and the National Wildlife Federation, along with many other conservation organizations, worked with citizens, teachers, biologists, ranchers, hunters, lawyers, politicians, and regulators (to name just a few) to bring back the gray wolf Tom was among those invited to be in the Park with Secretary Babbitt during the release of the first wolves back into Yellowstone.

Tom's dedication to wildlife and his thoughtful and heartfelt encouragement for those who care about wildlife is not limited to federal lands. South and east of Yellowstone, Tom and the National Wildlife Federation joined with the Shoshone and Arapaho Indian Tribes on the Wind River Indian Reservation in an effort to convert the Tribes'agricultural water rights into instream flow rights. Keeping the water in the river would have restored the Wind River and bolstered the Tribes cultural and economic hopes to once again rely on the river's formerly fertile fishery.

All of this dedication and commitment may be traced to an event early in his life that Tom likes to recite and that he swears is a true story. Forty years ago, as a boy at a Cheyenne, Wyoming, high school, he helped dangle another student by his heels out of a second story school window. Perhaps those few seconds of outdoor aerial suspension created a heightened appreciation of the earth and its environment—the boy who was dangled became a leader of private property rights advocates, and Tom, who kept a firm grip on those inverted heels, became the dedicated environmental leader, teacher, and wildlife guardian that he is today.

Perhaps those few seconds at the sill of that second story high school window gave Tom a knack for recognizing serious wildlife issues before most even realize there's a threat. A decade ago he led the National and Wyoming Wildlife Federations into court to enforce Wyoming's laws against game ranching. Today, game ranches in other states are often at the center of concern about the spread of chronic wasting disease.

Tom Dougherty has been the instigator, producer, coach, minister, and manager for those working to protect wildlife. Certainly one beneficiary of his passionate guardianship and persistent defense is the wildlife we enjoy in the Rocky Mountain region. But the creatures who thrive thanks to Tom are but a token compared to his greatest contribution: his recognition and nurturing of those willing to join in defending wildlife. Tom has motivated hundreds to care for and defend wildlife across the west. The allies Tom has mentored will ensure the West's wildlife legacy will endure.

For these reasons and more, I am proud to call Tom Dougherty a friend, and urge my colleagues to join me in recognizing his contributions to wildlife, our county, and the hundreds of citizens he has inspired to join together to make the West a better place for wildlife and people.

LEGISLATION TO AWARD THE CONGRESSIONAL GOLD MEDAL TO JUSTIN DART, JR.

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mrs. MORELLA. Mr. Speaker, I rise to introduce legislation to award the Congressional Gold Medal to Justin Dart Jr., a legendary advocate for disability and human rights, who died on June 22. He was 71 years old.

Justin Dart was a leader in the disability rights movement for over 30 years and was an instrumental force behind the Americans with Disabilities Act (ADA) of 1990, a landmark law protecting the civil rights of persons with disabilities. He was widely regarded as one of the ''fathers of the ADA.''

At age 18, Mr. Dart contracted polio, which left his legs paralyzed. He attended college at the University of Houston, where he earned his bachelor's and master's degrees. In college, Justin Dart became involved in the civil rights movement and founded an organization to end the racial segregation of the university he attended. Throughout his life, he was active in promoting and protecting the rights of women, persons of color, and gays and lesbians, in addition to people with disabilities.

A successful entrepreneur, Mr. Dart established several businesses in Mexico and Japan during the 1950s and 1960s, but turned away from these ventures so that he and his wife, Yoshiko, could fully devote themselves to human rights causes. In the 1980s, he was appointed by Presidents Reagan and Bush to a number of government posts, including membership on the National Council on Disability, Commissioner of the Rehabilitation Service Administration, and chair of the President's Committee on Employment of People with Disabilities. He also headed the Congressional Task Force on the Rights and Empowerment of Americans with Disabilities. He remained a strong proponent of the ADA, the Individuals with Disabilities Education Act, and other legislative milestones after his service in government, and helped found an organization, ''Justice for All,'' to protect the achievements of the disability rights movement.

In 1998 Justin Dart was awarded the Presidential Medal of Freedom, the nation's highest civilian award. Mr. Speaker, it is only fitting that Congress honor this civil rights advocate with the Congressional Gold Medal as well.

This week on July 26, we will celebrate the 12th anniversary of the ADA. On that day the disability community will come together in our Nation's Capital to pay tribute and celebrate the life of Justin Dart, and for his work to champion the cause of people with disabilities.

Mr. Speaker, let Congress, too, celebrate the life of Justin Dart, and let Congress reaffirm its commitment to the civil rights of all Americans with disabilities, by honoring this outstanding and visionary American with the Congressional Gold Medal.

INTRODUCTION OF THE PATIENT NAVIGATOR, OUTREACH, AND CHRONIC DISEASE PREVENTION ACT OF 2002

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. MENENDEZ. Mr. Speaker, I'm pleased to be joined by my Colleague from Florida, ILEANA ROS-LEHTINEN, to introduce the Patient Navigator, Outreach, and Chronic Disease Prevention Act of 2002.

The existence of significant health disparities in this nation is undeniable. For years, research has told us that minorities and low-income populations are the least likely to receive the health care they need to live a long, healthy life. We've done a very good job of identifying this problem—it's high time we do something to solve it.

That's why I'm very excited about the bill we are introducing today and the strong support we've already received for it. The bill is supported by the American Cancer Society, the National Association of Community Health Centers, the National Alliance for Hispanic Health, the National Hispanic Medical Association, the Intercultural Cancer Council and their Caucus, the National Council of La Raza, 100 Black Men of America, the National Rural Health Association, Dean and Betty Gallo Prostate Cancer Center, MHz Networks, Asian and Pacific Islander American Health Forum, and Dia de la Mujer Latina, Inc.

This bill addresses what I believe are the root causes of health disparities in minority and underserved communities: lack of access to health care in general—and particularly lack of access to prevention and early detection—as well as language and cultural barriers to care.

The bottom line is: the only way to stay healthy is to see a doctor when you are healthy. Yes, there are a number of explanations for the higher rates of disease among minority populations, including higher rates of uninsured, reduced access to care, and lower quality of care. But all of these barriers point to the same underlying problem—minority patients are less likely to receive early screening and detection, so their disease is found at a much later stage and they have less chance of survival.

The bill we're introducing today will ensure that all Americans, regardless of race, ethnicity, language, or geography, will have access to prevention screening and treatment, and that they will have an advocate at their side, helping them navigate through today's complicated health care system.

It does this by building upon the existing infrastructure of the Consolidated Health Center program, the Indian Health Service, the Office of Rural Health Policy, and the National Cancer Institute.

It creates model programs to ensure that people are educated about the importance of prevention screening and early detection. A key component of the proposal is year-round outreach to the target community, in a language that they can understand.

It funds culturally and linguistically competent providers that reach out into the community, build their trust, build relationships, and educate the public, while providing prevention screenings and follow-up treatment.

And it ensures that navigators are available to help patients make their way through the health care system —whether it's translating technical medical terminology, making sense of their insurance, making appointments for referral screenings, following-up to make sure the patient keeps that appointment, or even accompanying a patient to a referral appointment.

The original concept for the legislation comes from Dr. Freeman's ''navigator'' program, which he created while he was Director of Surgery at Harlem Hospital. Recently, I was fortunate to get to visit Dr. Huerta's local Cancer Preventorium, which replicates Dr. Freeman's navigator concept within a comprehensive model of prevention services. This bill will translate the work of Dr. Harold Freeman and Dr. Elmer Huerta into a legislative model for cancer and chronic disease prevention and treatment for minorities and underserved communities.

The track record of these programs speaks for itself. It's very clear that these are not new ideas or new concepts—they're models that have been proven to work. And it's time that we take what's worked and use it to benefit underserved populations across the country. That's exactly what this legislation will do.

TRIBUTE TO MARILYN FAGERSTROM

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. UDALL of Colorado. Mr. Speaker, as many of my colleagues know, in Colorado we are experiencing some of the worst wildfires in our state's history. We owe an enormous debt to the men and women who have heroically battled these blazes to save lives, protect homes, and lessen the damage to other resources.

In particular, I would like to take this opportunity to recognize one such firefighter, Ms. Marilyn Fagerstrom. Ms. Fagerstrom is an example of the people who always strive to use their abilities to make positive contributions to their communities.

At 71 years of age, Marilyn Fagerstrom is an esteemed firefighter—and a grandmother of six. After having moved to the mountains nearly twenty years ago, Ms. Fagerstrom decided that becoming a volunteer firefighter was the best way to give back to her community. Through the years she has stood shoulder to shoulder with firefighters who, more often than not, were much her junior.

In recent days, she has been tirelessly working to help fight the Big Elk wildfire burning between Estes Park and Lyons, Colorado. It has been said that Marilyn Fagerstrom does more in retirement than many people do during their careers. As such, she is a source of inspiration deserving of our respect and commendations.

For my colleagues' interest, I have attached a news story about Ms. Fagerstrom's firefighting efforts. I ask my colleagues to join with me today in honoring Mariyln Fagerstrom for her spirit, service and tenacity. I wish her continued health and happiness.

[Denver Post Northern Colorado Bureau]

71-YEAR-OLD STAYS YOUNG FIGHTING FIRES

(By Coleman Cornelius)

Sunday, July 21, 2002—LYONS—Marilyn Fagerstrom's graying hair, pearl earrings and round spectacles form the image of a grandmother. Then there are her Nomex fire-retardant shirt and black lug-soled boots.

Fagerstrom is 71 years old, a grandmother of six—and an esteemed firefighter. She is the oldest firefighter among nearly 400 at the Big Elk blaze and a veteran of the Hayman wildfire. Fagerstrom began fighting fires at age 53, when she retired to a mountain home northwest of Boulder and realized it was the best way to give back to her wildfire-prone community.

''I suddenly realized I live in an area that could burn. I began investigating. 'Do we have a fire department? What's going on?' '' said Fagerstrom, a former physical-education teacher. Fagerstrom quickly joined the Lefthand Fire Protection District, a volunteer force that responds to blazes primarily in Boulder County. As part of the district's engine team, she drives the heavy rig, hauls hoses and sprays down threatened homes and structures with water and fire retardant. In the devastating fire season of 2000, she spent six straight weeks in the field on wildfires including the monster at Mesa Verde National Park in southwestern Colorado. She slept in tents, bathed in portable showers and ate elbow-to-elbow with sweaty, soot-smudged firefighters, many of whom are younger men and women.

At the Big Elk wildfire, Fagerstrom has an office job. She works as an information officer for the federal team managing fire response.

Her engine crew was in the field protecting homes in the Big Elk Meadows subdivision as Fagerstrom came through leading a media tour.

''She brings us intelligence, charm, wit, wisdom and experience—definitely experience,'' Lefthand volunteer David Keyek said of Fagerstrom.

Added Dave Nyquist, chief of the Lefthand Fire Protection District: ''Marilyn is one of those people who makes things work. She's busier in retirement than most people are in their normal jobs.''

Fagerstrom said she has made firefighting her life because it allows her to experience camaraderie, adrenaline-laced physical challenge and the reward of helping others. She also wears the hats of information officer and treasurer for the Lefthand Fire Protection District. ''It keeps me going. I'm not ready to sit in the rocker yet,'' she said with a laugh.

A TRIBUTE TO STANLEY ''MIKE'' LARSON: FINALLY COMING HOME

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. MANZULLO. Mr. Speaker, fifty-seven years after he died on December 16, 1944 in the Battle of the Bulge, Stanley Larson finally received the funeral reserved for heroes.

He was just a 19-year-old kid, one year out of high school, looking forward to the same things all kids want: lasting friendships, a good job, a loving family. War has a tendency to permanently interrupt dreams of young men. One such was Stanley Larson of Rochelle, a resident of the same county where I live.

I had the opportunity to present an American flag to Stanley's family, the least I could do on behalf of a grateful America.

The enclosed story from the Rockford Register Star, July 23, 2002, tells his remarkable story:

BELGIANS MAKE TRIP FOR SOLDIER'S HOMETOWN BURIAL

(By Gale Worland)

ROCHELLE.—Jean-Louis Seel had always thought of Stanley E. Larson, and the other American soldiers whose remains he had recovered, as a soldier.

But at Rochelle United Methodist Church, as a young boy rounded a corner, Seel made the connection: Stanley the young boy. Stanley the teenager.

Here was his hometown, his past. Stanley, the high school basketball star. The fresh-faced boy who had a kind word for everyone. The young gentleman in glasses whose keen personality and confident smarts had made him student council president his senior year.

Monday was a day of strange contrasts for the Larson family, who laid to rest one of its oldest members, who was also one of the youngest: Pfc. Stanley E. ''Mike'' Larson, struck down by enemy fire at the age of 19 in a war that most of the people at his funeral were much too young to have seen.

After being buried in a common grave for 57 years not far from where he fell on Dec. 16, 1944, during the Battle of the Bulge, Larson's remains were discovered last summer deep in the Monschau Forest by a group of Belgian ''diggers''—four men, including Seel, who have taken on the recovery of American MIAs as a personal mission.

They had traveled from another hemisphere to see Stanley come back to his hometown, a Midwestern crossroads ringed by tassle-headed cornfields and shingled red barns.

And now they stood in the oppressive summer heat to say farewell to a young man killed on a historic, bitter winter's day. About 200 people gathered alongside them at Stanley's gravesite, including the great-grandnieces and great-grandnephews he never knew but who, today, tenderly walked to his silver casket and left a handful of red poppies.

Stanley's father, Elmer, had bought that plot for his youngest son nearly half a century ago. Now 16 members of VFW posts from throughout northern Illinois saluted their fallen comrade with a color guard. Seven white-gloved men and women sent by the U.S. Army from Fort Leonard Wood in Missouri raised their rifles and sounded the crack of three volleys for one of America's 58,000 World War II MIAs who had finally come home.

And as a bugler played taps, a train whistle in the distance blew in an uncanny, solemn harmony.

''These people are here today to give the family final closure,'' said Kenneth Seay of Loves Park VFW Post 9759. Seay, the POW/MIA director for the state, held the POW/MIA flag in the formal color guard at the gravesite. On his wrist he wears a thick band engraved with the names of the 98 Vietnam POW/MIAs from Illinois.

''With everything that's gone on in the past year, we really need to pay respect to those who've gone before,'' said Sen. Brad Burzynski, R-Clare, who attended the funeral.

''I believe God was with Stanley and his buddies when that barrage of hot steel came down upon them,'' said the Rev. Brian Channel, a military history buff who gave the sermon during the church funeral preceding Stanley's burial with military honors. ''Stanley's journey ends today after half a century.''

The casket lay in the church draped with a U.S. flag—just as it had at a similar ceremony months ago in a village church near where Stanley's body was found. Close to 2,000 people, many of them Belgians wanting to show gratitude to the American troops who helped secure their liberty, attended that day.

On Monday, the flag of Belgium, with its bold vertical stripes in black, gold and red, flanked the altar along with the Stars and Stripes. Belgian ''digger'' Jean Philippe Speder told the congregation how, when he was a teenager, he'd heard his grandparents talk about the war. But later he realized that those memories were dimming among his peers. ''The picture of the GI was fading as a new generation, including mine, grew up,'' he said. Speder painted the woods where Stanley lay for 57 years as a place of ''serene and magnificent deep forest, known for its high marshes and spring waters.'' More MIAs lie in unknown pockets of those woods. ''Those boys will always be home,'' he said, ''and live in our hearts forever.''

The friends and family who spoke at the funeral unraveled the compelling tale of how Stanley was searched for and found. In few words, Battle of the Bulge veteran Roger Foehringer reminded all why they had come: ''He's the real hero. He gave his life, his life for us.''

''Home is where I belong,'' Foehringer said, speaking for Stanley, ''Goodbye, friends.''

THE I.R.I. PROMOTES DEMOCRACY AND FREEDOM AROUND THE WORLD

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. ROYCE. Mr. Speaker, the importance of democracy and strong democratic institutions in today's world cannot be overstated; we have too many recent examples of the dangers posed by their absence. I would like to salute the International Republican Institute (IRI) and its dedicated work to promote and strengthen democracy around the world.

It is now impossible for us to ignore the potential that unstable states have as breeding grounds for terrorists and terrorist activities—particularly in Africa, where many weak and undemocratic states make fertile ground for terrorism. Africa has been the scene of past terrorist acts, as we saw in the tragic bombings of U.S. Embassies in Kenya and Tanzania.

In my role as Chairman of the International Relations Africa Subcommittee, I have had the opportunity to witness IRI's work in a number of African countries in which political development has been seriously challenged by ethnic and religious conflict, mass violence, and corrupt leadership. In 1999 I led an IRI election observation delegation to observe the historic democratic elections in Nigeria.

In that key country today, IRI is working with Nigerian political parties to prepare for upcoming elections and to encourage the increased participation of women in the political process. IRI also conducted, along with the National Democratic Institute and the International Foundation for Election Systems, a pre-election political assessment of Angola, a country that may be starting to make democratic progress from a savage civil conflict. A current program in Burundi is providing training and support to a legislature struggling to move forward after a genocide of horrific proportions and ongoing violent unrest that threatens the stability of the entire Great Lakes region.

In these constantly changing political landscapes, IRI continues to work in innovative ways to address democratic priorities. For example, building on several years of successful training with local government in South Africa's young democracy, IRI is now constructing a program which will strengthen a local government and community-level response to the AIDS epidemic, a national crisis which threatens both development and democratic stability.

By working to foster strong democratic institutions, transparency and accountability in government, and political empowerment at the grassroots level, institutions such as IRI promote international political stability and further the ideals of democratic freedom throughout the world.

TRIBUTE TO PETE SEIBERT, FOUNDER OF COLORADO'S VAIL SKI RESORT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise today to note the passing of Pete Seibert—a great man and a true pioneer. Mr. Seibert has often been described as a humble visionary guided by his passions more than his quest for material gains. His vision pioneered the Colorado ski industry and will no doubt continue to shape the industry for years to come.

Mr. Seibert started skiing on pair of his mother's wooden skis at the age of seven. He quickly fell in love with the sport and soon decided that he would one day create a ski resort of his own. As a young man, he joined the Army's storied 10th Mountain Division where he learned unparalleled mountaineering skills and served his country honorably during World War II. After being severely wounded in 1945, during some of the most difficult combat of the war, Pete Seibert was sent home from Italy with a Bronze Star and Purple Heart and was told that he would likely never walk again. He did not accept that verdict—in fact, he totally rejected it, and went on to overcome the odds against rehabilitation. So complete was his success that in 1950 he qualified for the U.S. Alpine Ski Team.

A few years later, Pete Seibert set out in earnest to create a ski resort. After considering many possible locations, he chose the site near Gore Creek that is now known as Vail Mountain. With the same tenacity with which he overcame his war injury, Mr. Seibert shrugged off suggestions that, the area was too flat, too close to the interstate and too close to Aspen.

Chris Jouflas, a lifelong rancher in the area, tells about tending sheep high on the mountain before it was ever referred to as Vail. He remembers one day encountering two young men scanning the mountain, excitedly pointing out terrain features and taking copious notes. The two men were Pete Seibert and his friend Earl Eaton. Mr. Jouflas asked them what they were doing. They matter-of-factly replied that they were going to turn the mountainside into a world class ski resort. Mr. Jouflas likely had

his doubts, but Pete Seibert's dreams of that day evolved into one of the most successful ski resorts in North American history.

Vi Brown, a longtime local in Vail, recalls, ''Pete was a real hero. If you saw him when you were walking down the street people would say to their kids, 'There goes Pete Seibert. He is the man that invented Vail.' '' But despite his achievements and his fame he remained sincerely humble and was an imminently likable man. I believe that humility may well have come from his deep love and understanding of the mountains. Any real mountaineer will come to recognize that you must have perseverance, respect and humility in order to fully experience a mountain. One would be hard pressed to find a man who better embodied these qualities than did Pete Seibert.

It was not greed but passion that inspired him to create a place where millions of people have been able to experience the beauty of that mountain through the years. Our great state and skiers around the world owe a huge debt to Pete Seibert. He will be deeply missed but never forgotten. I ask my colleagues to join with me in expressing our gratitude for his contributions and our sorrow for his passing.

For the information of our colleagues, I attach a news story from the Denver Post about Mr. Seibert and his life and accomplishments.

SKI PIONEER SEIBERT DIES OF CANCER AT 77—10TH MOUNTAIN VETERAN FOUNDED VAIL RESORT

[From the Denver Post Mountain Bureau, July 17, 2002]

(By Steve Lipsher)

VAIL.—Pete Seibert, the visionary ski pioneer who turned Vail and Beaver Creek from dreams into two of the world's pre-eminent ski resorts, has died at age 77.

Seibert, who succumbed to cancer Monday evening, more than 50 years after Italian artillery shells nearly claimed his life during World War 11, was one of a small cadre of 10th Mountain Division veterans who developed Colorado skiing into an industry that generates billions of dollars annually.

''Peter is the one who really founded Vail and Beaver Creek, and ... those two areas are giants in the ski industry,'' said lifelong friend Bill Brown, one of the original nine men recruited by Seibert.

It was Seibert who, along with local rancher Earl Eaton, saw the potential in 1957 in what would become Vail Mountain, 100 miles west of Denver.

''Willy Schaeffler, God bless him, said Vail will never work as a resort; it's too flat,'' Seibert said in a December 2000 Denver Post interview, recalling the legendary former University of Denver ski coach. ''I'd seen the places in Europe that worked. They were pretty easy, cruising. People liked that. They don't want to be holding an edge all the time. The skis should flow, and you should be able to go with them.''

Seibert also rallied skeptical investors into paying $10,000 apiece for shares in the company—along with homesites in the village and lifetime ski passes—that now are worth millions. And it was Seibert who oversaw the cutting of the original ski trails, and ultimately it was Seibert who first lured the World Alpine Ski Championships to Vail.

''He had an idea a minute, almost, in the early days, and he saw the potential of Vail,'' said Bob Parker, another 10th Mountain Division veteran who left his job as editor of Skiing magazine to join Seibert as Vail's first marketing manager. ''We all believed in Vail because we believed in Peter. It was his real leadership and enthusiasm.''

Pat O'Donnell, head of Aspen Skiing and chairman of industry trade group Colorado Ski Country USA, credited Seibert with setting the industry standard in resort development.

HE'S AN ICON, A VISIONARY

''He's an icon, a role model, a visionary and is largely responsible for the success, through his dreaming and implementation, of what the ski industry is today for the state of Colorado and the nation,'' O'Donnell said.

Fired as CEO by incoming Vail owner Harry Bass in the 1970s, Seibert later returned to the company under George Gillett as a full-time adviser, a position he held until his death.

''He was always one to share his experience, to brainstorm ideas of how to improve our business,'' said Beaver Creek chief operating officer John Garnsey. ''He was such an innovator and just a great thinker. He was always coming up with ideas, and he never stopped challenging us to come up with better ways of running our resort.''

Two years ago, when Vail opened Blue Sky Basin—finally realizing the full scope of the ski area envisioned by Seibert in the 1950s—the company named one of the expanses ''Pete's Bowl.''

''That is the signature homage to Pete Seibert,'' said Vail Resorts CEO Adam Aron. ''There were a number of people who were involved in the founding and funding of Vail. But clearly, Pete Seibert was the conductor of that orchestra and deserves the great credit.''

In recent years, Vail attracted the ire of environmentalists, who complain that it is too big and caters to the wealthy at the expense of nature. Seibert once told a Denver Post reporter: ''We weren't trying to save the world. We were just trying to build a ski area.''

Born in Sharon, Mass., on Aug. 7, 1924, Seibert started skiing at age 7 on a pair of his mother's wooden skis, winning races by age 15.

After graduating from high school, he joined the U.S. Army's famed 10th Mountain Division, which trained at Camp Hale and then fought in the 1945 siege of Fiva Ridge—the name of one of the seminal runs at Vail—and Mount Belvedere.

Wounded so badly in the battle for Mount Terminale a few days later that doctors warned him he probably wouldn't walk again, much less ski, Seibert was sent home with a Bronze Star and a Purple Heart.

Seibert, however, endured a painful rehabilitation and quickly took up skiing again, teaching himself to get down the hill practically on his one good leg with such speed that he made the U.S. Ski Team in 1950, wrapping his damaged right leg heavily before each run.

''One way or another, skiing was going to be my life,'' he wrote in his book on the history of the resort, ''Vail: Triumph of a Dream.''

After working for Aspen and Loveland ski areas, training as a gourmet chef and attending L'Ecole Hoteliere de Lausanne, an international school for hotel management in Switzerland, Seibert began in earnest pursuing his dream of creating a world-class ski resort of his own.

THE GREATEST PERSONALITY

''He could sell an icebox to an Eskimo,'' Brown said. ''Pete has the greatest personality.''

Despite repeated run-ins with Paul Hauk, the U.S. Forest Service supervisor for ski-area development, as well as a mad scramble for money from investors, Seibert and Vail Associates finally opened for business in 1962.

Little snow had fallen that autunm, but after a stunt in which Seibert hired Indians to perform a snow dance, a blizzard struck, and Vail was off and running.

Still, it was hand-to-mouth for a while, as all profits had to be dumped back into improvements on the mountain.

''As Vail was being built, we were always balancing on the brink of failure,'' Seibert recounted in his book.

Soon, however, the resort achieved success, accompanied by the development of an upscale town modeled after a Bavarian village.

But, truth be told, Seibert never achieved the wild wealth of many of the later arrivals to Vail, although after he was hired again by Gillett, he certainly lived comfortably and was as accustomed to wearing a tuxedo as a ski parka.

''He always seemed driven by his dreams and vision rather than by material considerations,'' said Vail Mayor Ludwig Kurz, the longtime former director of the Beaver Creek ski school who helped Seibert sketch out the treacherous Birds of Prey downhill course at that mountain that challenges top World Cup skiers today.

Seibert was diagnosed with stomach cancer last year, and although he underwent aggressive treatment, it spread into his lungs and esophagus.

''We all knew that he was fighting a tough battle,'' Garnsey said. ''But Pete had overcome a lot of tough battles and adversity in his life, and he always came through.''

He died in his sleep at his Edwards home, surrounded by his former wife, Betty, with whom he remained very close, two of his three sons and family friends. He also is survived by three grandchildren.

''He was really a patriot of skiing and tried to make the town something,'' said prominent Vail hotel and restaurant owner Sheika Gramshammer, who came to Vail in the early days with her husband, Pepi, at Seibert's insistence. ''Vail was really a small family, and Pete was like our patron, our father. I think he was born to do this kind of thing. He was a dreamer.''

The family has asked that, instead of flowers, donations be sent to the Shaw Regional Cancer Center at the Vail Valley Medical Center. No services have been announced.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 25, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 26

9:30 a.m.
Armed Services
To hear and consider the nominations of Lt. Gen. James T. Hill, USA, for appointment to the grade of general and assignment as Commander in Chief, United States Southern Command; and Vice Adm. Edmund P. Giambastiani Jr., USN, for appointment to the grade of admiral and assignment as Commander in Chief, United States Joint Forces Command.
SR–222

Health, Education, Labor, and Pensions
Children and Families Subcommittee
To hold hearings to examine birth defect screening, focusing on strategies for prevention and ensuring quality of life.
SD–430

JULY 29

2:30 p.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine certain measures to strengthen multilateral nonproliferation regimes.
SD–342

JULY 30

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine finances in the telecommunications marketplace, focusing on maintaining the operations of essential communications facilities.
SR–253

Environment and Public Works
To hold hearings to examine the effectiveness of the current Congestion Mitigation and Air Quality (CMAQ) program, conformity, and the role of new technologies.
SD–406

Foreign Relations
Business meeting to consider pending calendar business.
SD–419

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 Task 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

Health, Education, Labor, and Pensions
To hold hearings to examine.
SD–430

10:30 a.m.
Judiciary
Crime and Drugs Subcommittee
To hold hearings to examine criminal and civil enforcement of environmental laws.
SD–226

11 a.m.
Foreign Relations
To hold hearings on the nominations of Nancy J. Powell, of Iowa, to be Ambassador to the Islamic Republic of Pakistan, and Richard L. Baltimore III, of New York, to be Ambassador to the Sultanate of Oman.
SD–419

2:30 p.m.
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings to examine improvement in consumer choice with regard to automobile repair shops.
SR–253

Armed Services
Emerging Threats and Capabilities Subcommittee
To hold hearings to examine the report of the General Accounting Office on nuclear proliferation and efforts to help other countries combat nuclear smuggling.
SR–232A

JULY 31

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Rebecca Dye, of North Carolina, to be a Federal Maritime Commissioner.
SR–253

Foreign Relations
Business meeting to consider pending calendar business.
SD–419

Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

9:45 a.m.
Commerce, Science, and Transportation
Surface Transportation and Merchant Marine Subcommittee
To hold hearings to examine railroad shipper issues.
SR–253

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

Environment and Public Works
Superfund, Toxics, Risk, and Waste Management Subcommittee
To hold oversight hearings to examine the Environmental Protection Agency Inspector General's Report on the Superfund Program.
SD–406

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

Judiciary
To hold hearings to examine class action litigation issues.
SD–226

10:30 a.m.
Foreign Relations
To hold hearings to examine threats, responses, and regional considerations surrounding Iraq.
SD–419

1:30 p.m.
Judiciary
To hold hearings on the proposed Prison Rape Reduction Act of 2002.
SD–226

2:30 p.m.
Foreign Relations
To continue hearings to examine threats, responses, and regional considerations surrounding Iraq.
SD–419

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 934, to require the Secretary of the Interior to construct the Rocky Boy's North Central Montana Regional Water System in the State of Montana, to offer to enter into an agreement with the Chippewa Cree Tribe to plan, design, construct, operate, maintain and replace the Rocky Boy's Rural Water System, and to provide assistance to the North Central Montana Regional Water Authority for the planning, design, and construction of the noncore system; S. 1577, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act; S. 1882, to amend the Small Reclamation Projects Act of 1956; S. 2556, to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho; and S. 2696, to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project.
SD–366

3 p.m.
Armed Services
To hold hearings to examine the status of Operation Enduring Freedom.
SD–106

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

Foreign Relations
To hold hearings to examine national security perspectives regarding Iraq.
SD–419

2 p.m.
Indian Affairs
To hold oversight hearings to examine problems facing Native youth.
SR–485

Foreign Relations
To continue hearings to examine national security perspectives regarding Iraq.
SD–419

POSTPONEMENTS

JULY 30

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine Food and Drug Administration regulation of tobacco products.
SD–430

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

Daily Digest

HIGHLIGHTS

At 3:40 p.m. the House recognized the anniversary of the July 24, 1998 tragedy in which Officer Jacob J. Chestnut and Detective John M. Gibson of the United States Capitol Police were killed in the line of duty defending the Capitol against an intruder armed with a gun.

Pursuant to Article I, Section 5, Clause 2 of the United States Constitution, Representative James A. Traficant, Jr., was expelled from the House of Representatives.

The House passed H.R. 5120, Treasury and Postal Operations Appropriations

The House passed H.R. 4965, Partial-Birth Abortion Ban.

The House passed H.R. 4628, Intelligence Authorization Act.

House Committees ordered reported 129 sundry measures.

Senate agreed to the Conference Report on H.R. 4775, 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States, clearing the measure for the President.

Senate

Chamber Action

Routine Proceedings, pages S7243–S7322

Measures Introduced: Thirteen bills were introduced, as follows: S. 2777–2789. **Page S7308**

Measures Reported:

S. 2778, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003. (S. Rept. No. 107–218)

S. 2779, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003. (S. Rept. No. 107–219)

S. 2784, making appropriations for energy and water development for the fiscal year ending September 30, 2003. (S. Rept. No. 107–220)

Page S7308

Measures Passed:

Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act: Senate passed S. 434, to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands, after agreeing to committee amendments.

Pages S7319–21

Vicksburg National Military Park Boundary Modification Act: Senate passed S. 1175, to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, after agreeing to a committee amendment in the nature of a substitute. **Page S7321**

Honoring Lindy Boggs: Senate agreed to H. Con. Res. 439, honoring Corinne "Lindy" Claiborne Boggs on the occasion of the 25th anniversary of the founding of the Congressional Women's Caucus.

Pages S7321–22

Greater Access to Affordable Pharmaceuticals Act: Senate continued consideration of S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, taking action on the following amendments proposed thereto: **Pages S7249–63, S7282–91, S7292–99**

Pending:

Reid (for Dorgan) Amendment No. 4299, to permit commercial importation of prescription drugs from Canada. **Page S7249**

Rockefeller Amendment No. 4316 (to Amendment No. 4299), to provide temporary State fiscal relief. **Pages S7284–91, S7292–99**

Gramm point of order that the emergency designation in Section C of Rockefeller Amendment No. 4316 (to Amendment No. 4299), listed above, violates section 205 of H. Con. Res. 290, 2001 Congressional Budget Resolution. **Page S7299**

Reid motion to waive section 205 of H. Con. Res. 290, 2001 Congressional Budget Resolution, with respect to the emergency designation in Section C of Rockefeller Amendment No. 4316 (to Amendment No. 4299), listed above. **Page S7299**

During consideration of this measure today, Senate also took the following action:

By 51 yeas to 48 nays (Vote No. 189), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate failed to agree to the motion to waive the Congressional Budget Act of 1974 with respect to Hagel Amendment No. 4315 (to Amendment No. 4299, as amended), to provide Medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs. Subsequently, the point of order that the amendment was in violation of section 302(f) of the Congressional Budget Act of 1974 for spending in excess of allocation, was sustained, and the amendment thus fell. **Pages S7249–63, S7282–83**

A motion was entered to close further debate on Rockefeller Amendment No. 4316 (to Amendment No. 4299), listed above and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Friday, July 26, 2002. **Page S7299**

A unanimous-consent agreement was reached providing for further consideration of the bill at 10:30 a.m., on Thursday, July 25, 2002, with 1 hour of debate in relation to the motion to waive section 205 of H. Con. Res. 290, 2001 Congressional Budget Resolution, with respect to the emergency designation in Section C of Rockefeller Amendment No. 4316 (to Amendment No. 4299), listed above; to be followed by a vote on the motion to waive. **Page S7303**

Supplemental Appropriations Conference Report: By 92 yeas to 7 nays (Vote No. 188), Senate agreed to the conference report on H.R. 4775, making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, clearing the measure for the President. **Pages S7263–82**

Conferring Honorary Citizenship: Senate concurred in the amendment of the House, amendment to the preamble, and the amendment to the title to S.J. Res. 13, conferring honorary citizenship of the United States posthumously on Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette. **Pages S7302–03**

Defense and Legislative Branch Appropriations—Agreement: A unanimous-consent agreement was reached providing that the Majority Leader, following consultation with the Republican Leader, may proceed to the consideration of H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003; that debate on the bill and committee amendment be limited to 30 minutes; that immediately after the bill is reported, the text of the Senate committee reported bill, S. 2720, be inserted in the appropriate place in the House bill; that certain first degree amendments be proposed thereto, under a time limitation, with certain exceptions; that upon disposition of these amendments; the bill be read a third time, and the Senate vote on passage of the bill, as amended; that upon passage, Senate insist on its amendment, request a conference with the House thereon, and the Chair be authorized to appoint conferees on the part of the Senate, without further intervening action or debate; provided further that the Senate proceed to consideration of H.R. 5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, no later than Wednesday, July 31, 2002. **Page S7302**

Appointment:

Congressional Hunger Fellows Program: The Chair, on behalf of the Majority Leader, pursuant to Public Law 107–171, announced the appointment of the following individuals to serve as members of the Board of Trustees of the Congressional Hunger Fellows Program: Senator Harkin and Representative Clayton. **Page S7319**

Executive Session: Senate agreed to the motion to proceed to executive session to consider the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit. **Page S7322**

Nomination—Cloture Motion Filed: A motion was entered to close debate on the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote on the nomination will occur on Friday, July 26, 2002. **Page S7322**

Nominations Received: Senate received the following nominations:

Joaquin F. Blaya, of Florida, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2002.

Joaquin F. Blaya, of Florida, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2005. (Reappointment)

Peggy Goldwater-Clay, of California, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring June 5, 2006. (Reappointment)

Juanita Alicia Vasquez-Gardner, of Texas, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 2003.

Robert Maynard Grubbs, of Michigan, to be United States Marshal for the Eastern District of Michigan for the term of four years.

Johnny Mack Brown, of South Carolina, to be United States Marshal for the District of South Carolina for the term of four years.

Denny Wade King, of Tennessee, to be United States Marshal for the Middle District of Tennessee for the term of four years. **Page S7322**

Messages From the House: **Page S7308**

Measures Placed on Calendar: **Page S7308**

Additional Cosponsors: **Pages S7308–10**

Statements on Introduced Bills/Resolutions: **Pages S7310–16**

Additional Statements: **Pages S7307–08**

Amendments Submitted: **Pages S7316–18**

Authority for Committees to Meet: **Pages S7318–19**

Privilege of the Floor: **Page S7319**

Record Votes: Two record votes were taken today. (Total—189) **Pages S7282, S7283**

Adjournment: Senate met at 10 a.m., and adjourned at 7:33 p.m., until 9:30 a.m., on Thursday, July 25, 2002.

Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING—ENERGY AND WATER APPROPRIATIONS

Committee on Appropriations: Committee ordered favorably reported an original bill (S. 2784) making appropriations for energy and water development for the fiscal year ending September 30, 2003.

BUSINESS MEETING—TRANSPORTATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Transportation approved for full committee consideration an original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003.

HUD MANAGEMENT

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Housing and Transportation held oversight hearings to examine management challenges of the Department of Housing and Urban Development (HUD), focusing on staffing, acquisition management, information systems, assessing HUD's management environment, and formulating viable strategies and plans to address the major management challenges, receiving testimony from Alphonso Jackson, Chief Operating Officer/Deputy Secretary of Housing and Urban Development; Stanley J. Czerwinski, Director, Physical Infrastructure, General Accounting Office; and Carolyn Federoff, American Federation of Government Employees Council of HUD Locals, Boston, Massachusetts.

Hearings recessed subject to call.

WOMEN IN SCIENCE AND TECHNOLOGY

Committee on Commerce, Science, and Transportation: Subcommittee on Science, Technology, and Space concluded hearings to examine barriers to the involvement and advancement of women in math, science and technology, including under representation of women at the college level and above, and what can be done to lower these barriers and encourage more girls and women in the area science, after receiving testimony from Senator Boxer; Kristina M. Johnson, Duke University Pratt School of Engineering, Durham, North Carolina; Kay Koplovitz, Koplovitz and Company, New York, New York; Nancy Stueber, Oregon Museum of Science and Industry, Portland; and Ana Maria Boitel, Women in Technology, Alexandria, Virginia.

FEDERAL ENERGY REGULATORY COMMISSION

Committee on Energy and Natural Resources: Committee concluded hearings to examine issues surrounding the Federal Energy Regulatory Commission, focusing on electric and natural gas infrastructure generation and transmission and the demand the power in the future, after receiving testimony from Pat Wood III, Chairman, Federal Energy Regulatory Commission, Department of Energy; Stephen Ward, Maine Public Advocate, Augusta, on behalf of the National Association of State Utility Consumer Advocates; M. Carol Coale, Prudential Financial, Houston, Texas; Lawrence J. Makovich, Cambridge Energy Research

Associates, Cambridge, Massachusetts; Pete Landrieu, Public Service Enterprise Group, Newark, New Jersey; and David R. Nevius, North American Electric Reliability Council, Princeton, New Jersey.

ENVIRONMENTAL TREATIES IMPLEMENTATION

Committee on Environment and Public Works: Committee concluded joint hearings with the Committee on Foreign Relations to examine implementation of certain environmental treaties to which the United States is a party, and the United States' international environmental agreements and commitments, after receiving testimony from John F. Turner, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs; James L. Connaughton, Chairman, White House Council on Environmental Quality; Maurice F. Strong, Earth Council Institute Canada, Toronto, Ontario; John C. Dernbach, Widener University Law School, Harrisburg, Pennsylvania; and Christopher C. Horner, Competitive Enterprise Institute, Washington, D.C.

NOMINATIONS

Committee on Foreign Relations: Committee concluded hearings on the nominations of Kristie Anne Kenney, of Maryland, to be Ambassador to the Republic of Ecuador, Larry Leon Palmer, of Georgia, to be Ambassador to the Republic of Honduras, and Barbara Calandra Moore, of Maryland, to be Ambassador to the Republic of Nicaragua, all of the Department of State, after the nominees testified and answered questions in their own behalf.

BUSINESS MEETING

Committee on Governmental Affairs: Committee ordered favorably reported the nominations of James E. Boasberg, to be an Associate Judge of the Superior Court of the District of Columbia, Michael D. Brown, of Colorado, to be Deputy Director of the Federal Emergency Management Agency, and Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget.

Also, Committee met and reconsidered their action of May 22, 2002, when the committee ordered favorably reported, with amendments, S. 2452, to establish the Department of National Homeland Security and the National Office for Combating Terrorism (pending on Senate calendar), but did not take any final action thereon, and will meet again tomorrow.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee met and discussed certain committee matters, but did not take any action thereon, and recessed subject to the call.

NATIVE AMERICAN COMMERCIAL DRIVING

Committee on Indian Affairs: Committee concluded hearings on S. 1344, to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers, after receiving testimony from James E. Shanley, Fort Peck Community College, Poplar, Montana, on behalf of the American Indian Higher Education Consortium; David Fluke, Fed Ex Freight West, Citris Heights, California, on behalf of the American Trucking Associations, Inc.; and Andra Rush, Rush Trucking, Wayne, Michigan.

CORPORATE RESPONSIBILITY

Committee on the Judiciary: Subcommittee on Crime and Drugs resumed hearings to examine whether the use of criminal sanctions will help deter corporate wrong doing and ensure responsibility, receiving testimony from G. William Miller, G. William Miller and Company, former Secretary of the Treasury and former Chairman, Federal Reserve Board, Roderick M. Hills, Hills Enterprises, former Chairman, Securities and Exchange Commission, and James R. Doty, Baker Botts, former General Counsel, Securities and Exchange Commission, all of Washington, D.C.

Hearings recessed subject to call.

BUSINESS MEETING

Committee on Small Business and Entrepreneurship: Committee ordered favorably reported the following bills:

S. 2335, to establish the Office of Native American Affairs within the Small Business Administration, and to create the Native American Small Business Development Program, with an amendment;

S. 2483, to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns;

S. 2466, to modify the contract consolidation requirements in the Small Business Act;

S. 2734, to provide emergency assistance to nonfarm small business concerns that have suffered substantial economic harm from the devastating effects of drought, with an amendment in the nature of a substitute;

S. 1994, to establish a priority preference among certain small business concerns for purposes of Federal contracts, with an amendment;

S. 2753, to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, with an amendment in the nature of a substitute; and

H.R. 2666, to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a vocational and technical entrepreneurship development program.

VA MENTAL HEALTH CARE

Committee on Veterans' Affairs: Committee concluded hearings to examine Veterans Administration mental health care issues, including clinical care services, special emphasis programs, Mental Health Intensive Case Management program, homeless veterans, post-traumatic stress disorder, and substance abuse, after receiving testimony from Robert H. Roswell, Under Secretary of Veterans Affairs for Health; Miklos Losonczy, Robert Wood Johnson School of Medicine Department of Psychiatry/New Jersey Health Care System, Piscataway, on behalf of the Committee on Care of Veterans with Serious Mental Illness; Ralph Ibson, National Mental Health Association, Alexandria, Virginia; Renato D. Alarcon, Emory University School of Medicine Department of Psychiatry, Atlanta, Georgia, on behalf of the American Psychiatric Association; Colleen Evans, VA Pittsburgh Health Care System, Pittsburgh, Pennsylvania, on behalf of the American Federation of Government Employees, AFL-CIO; and Frederick Frese, Northeastern Ohio Universities College of Medicine, Akron, and Moe Armstrong, Vinfen Corporation, Cambridge, Massachusetts, both on behalf of the National Alliance for the Mentally Ill.

House of Representatives

Chamber Action

Measures Introduced: Measures introduced will appear in the next issue of the Record.

Reports Filed: Reports were filed today as follows:

Conference report on H.R. 3763, to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws (H. Rept. 107–610); **Pages H5393–H5411**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative LaHood to act as Speaker pro tempore for today. **Page H5317**

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Samer Youssef, Pastor, Antiochian Orthodox Church of the Redeemer, Los Altos Hills, California. **Page H5317**

Moment of Silence In The Memory of Officer Jacob J. Chestnut and Detective John M. Gibson: At 3:40 p.m. the Chair recognized the anniversary of July 24, 1998 tragedy in which Officer Jacob J. Chestnut and Detective John M. Gibson of the United States Capitol Police were killed in the line of duty defending the Capitol against an intruder armed with a gun. **Page H5352**

Treasury and Postal Operations Appropriations: The House passed 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 by a yea-and-nay vote of 308 yeas to 121 nays, Roll No. 341. **Pages H5322–46, H5352**

Agreed To:

Moran of Virginia amendment No. 21 printed in the Congressional Record of July 21 that prohibits any funding to be used to establish or enforce any numerical goal or quota for subjecting the employees of an agency to public-private competitions or converting the employees or the work they perform to private contractor performance under OMB circular A–76 or any other administrative regulation, directive, or policy (agreed to by a recorded vote of 261 ayes to 166 noes, Roll No. 336); **Pages H5322–28, H5341–42**

Sanders amendment No. 7 printed in the Congressional Record of July 15 that prohibits any funding to be used by the Internal Revenue Service for activities that contravene current tax, Employee Retirement Income Security Act (ERISA) pension or age discrimination statutes (agreed to by a recorded vote of 308 ayes to 121 noes, Roll No. 339); and **Pages H5333–36, H5343–44**

Barr amendment No. 23 printed in the Congressional Record of July 23 that prohibits the use of national anti-drug media campaign funding to pay any amounts pursuant to a specific contract. **Pages H5336–41**

Rejected:

Hefley amendment that sought to reduce funding for the Allowances and Office Staff for former Presidents by $339,000 (rejected by a recorded vote of 165 ayes to 265 noes, Roll No. 337); **Pages H5328–30, H5342–43**

Hefley amendment No. 16 printed in the Congressional Record of July 17 that sought to reduce

each amount appropriated or otherwise made available by 1 percent (rejected by a recorded vote of 147 ayes to 282 noes, Roll No. 338);

Pages H5330–32, H5343

Withdrawn:

Kucinich amendment No. 18 printed in the Congressional Record of July 17 was offered but subsequently withdrawn that sought to prohibit any funding to be used to enforce or implement discounts for the statistical value of a human life estimated during regulatory reviews through implementation of OMB Circular A–94 Guidelines and Discount Rates for Benefit Cost Analysis of Federal programs or any guidance having the same substance; **Page H5330**

Jackson-Lee amendment No. 12 printed in the Congressional Record of July 16 was offered but subsequently withdrawn that sought to prohibit any funding to be used to prevent the rehabilitation of urban and rural post offices; **Page H5332**

Flake amendment No. 2 printed in the Congressional Record of July 15 was offered but subsequently withdrawn that sought to prohibit any funding to be used by entities unless specifically identified by name as a recipient in the Act;

Pages H5332–33

Wynn amendment No. 8 printed in the Congressional Record of July 15 was offered but subsequently withdrawn that sought to establish a centralized reporting system to enable agencies to generate reports on efforts regarding both contracting out and contracting in; and **Pages H5344–45**

Hoyer amendment was offered but subsequently withdrawn that sought to prohibit any funding to be used by the Customs Service to require reports on repairs to U.S. flag vessels on the high seas.

Pages H5345–46

The House agreed to H. Res. 488, the rule that is providing for consideration of the bill on July 18.

Partial-Birth Abortion Ban: The House passed H.R. 4965, to prohibit the procedure commonly known as partial-birth abortion by a recorded vote of 274 ayes to 151 noes with 1 voting ''present'', Roll No. 343. **Pages H5352–74**

Rejected the Baldwin motion that sought to recommit the bill to the Committee on the Judiciary with instructions to report it back to the House forthwith with an amendment that inserts language that states that the prohibition does not apply to a partial-birth abortion where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother by a recorded vote of 187 ayes to 241 noes, Roll No. 342. **Pages H5371–73**

Agreed to H. Res. 498, the rule that provided for consideration of the bill by a yea-and-nay vote of 248 yeas to 177 nays, Roll No. 340. **Pages H5346–52**

In the Matter of James A. Traficant, Jr., The House agreed to H. Res. 495, in the matter of James A. Traficant, Jr. by a 2/3 recorded vote of 420 ayes to 1 no, with 9 voting ''present'', Roll No. 346. The text of the resolution is as follows: Resolved, that, pursuant to Article I, Section 5, Clause 2 of the United States Constitution, Representative James A. Traficant, Jr., be, and he hereby is, expelled from the House of Representatives. Earlier, rejected the LaTourette motion to postpone consideration of the resolution until Sept. 4, 2002 by a recorded vote of 146 ayes to 285 noes, Roll No. 345. **Pages H5375–93**

Intelligence Authorization: The House completed debate and began considering amendments to H.R. 4628, to authorize appropriations for fiscal year 2003 for intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System. **(See next issue.)**

Pursuant to the rule, the Permanent Select Committee on Intelligence amendment in the nature of a substitute now printed in the bill (H. Rept. 107–592) was considered as an original bill for the purpose of amendment. **(See next issue.)**

Agreed To:

Smith of New Jersey amendment to the Roemer amendment No. 9 printed in the Congressional Record of July 23 that includes representation of family members of victims of terrorist attacks on the National Commission on Terrorist Attacks;

(See next issue.)

Roemer amendment No. 9 printed in the Congressional Record of July 23, as amended, that creates a National Commission on Terrorist Attacks Upon the United States (agreed to by a recorded vote of 219 ayes to 188 noes, Roll No. 347).

(See next issue.)

Chambliss amendment No. 3 printed in the Congressional Record of July 23, that establishes the Homeland Security Information Sharing Act;

(See next issue.)

Pelosi amendment No. 8 printed in the Congressional Record of July 23, that clarifies the use of funds for counter-drug and counterterrorism activities for Colombia; **(See next issue.)**

Goss amendment No. 5 printed in the Congressional Record of July 23, as modified, that limits the use of the Defense Emergency Response Fund;

(See next issue.)

Roemer amendment No. 9 printed in the Congressional Record of July 22 that requires a report on the establishment of a Civilian Linguist Reserve Corps comprised of individuals with advanced skills in foreign languages; and **(See next issue.)**

Hastings of Florida enbloc amendment consisting of amendments No. 6 and 7 printed in the Congressional Record of July 23 that expresses the sense of Congress on diversity in the workforce of intelligence community agencies and requires an annual report on the hiring and retention of minority employees in the intelligence community.

(See next issue.)

Withdrawn:

Engel amendment No. 4 printed in the Congressional Record of July 23, was offered but subsequently withdrawn that sought to specify limitations on the assistance provided to the Palestinian Security Services. (See next issue.)

The Clerk was authorized to make technical corrections and conforming changes in the engrossment of the bill. (See next issue.)

Agreed to H. Res. 497, the rule that provided for the consideration of the bill by voice vote.

(See next issue.)

Order of Business—Intelligence Authorization: Agreed that during consideration of H.R. 4628 in the Committee of the Whole pursuant to H. Res. 497, no further amendment to the committee amendment in the nature of a substitute may be offered after the legislative day of July 24, 2002 except pro forma amendments offered by the Chairman or ranking minority member of the Permanent Select Committee on Intelligence or their designees for the purpose of debate. (See next issue.)

Order of Business—Corporate and Auditing Accountability, Responsibility, and Transparency Act Conference Report: Agreed that it be in order at any time on Thursday, July 25, 2002 to consider a conference report to accompany H.R. 3763, Corporate and Auditing Accountability, Responsibility, and Transparency Act; that the conference report be considered as read; and that all points of order against the conference report and against its consideration be waived. (See next issue.)

Suspensions: The House agreed to suspend the rules and pass the following measures:

National Defense Authorization Act for Fiscal Year 2003: Debated on July 23, H.R. 4547, amended, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense and to prescribe military personnel strengths for fiscal year 2003 (agreed to by a yea-and-nay vote of 413 yeas to 3 nays, Roll No. 335); and Page H5318

Condemning the Persecution of Falun Gong Practitioners by the Chinese Government: Debated on July 22, H. Con. Res. 188, amended, expressing the sense of Congress that the Government of the People's Republic of China should cease its persecution of Falun Gong practitioners (agreed to by a yea-and-nay vote of 420 yeas with none voting "nay", Roll No. 344). Pages H5374–75

Recess: The House recessed at 2:45 a.m. on Thursday, July 25 and will reconvene at approximately 9 a.m. on Thursday, July 25.

Amendments: Amendments ordered printed pursuant to the rule will appear in the next issue of the Record.

Quorum Calls—Votes: Four yea-and-nay votes and nine recorded votes developed during the proceedings of the House today and appear on pages H5318, H5341–42, H5342–43, H5343, H5343–44, H5351–52, H5352, H5373, H5373–74, H5374, H5383, H5393 (continued next issue). There were no quorum calls.

Adjournment: The House met at 10 a.m. and at 2:45 a.m. on Thursday, July 25 stands in recess.

Committee Meetings

CHILD LEFT BEHIND ACT IMPLEMENTATION

Committee on Education and the Workforce: Held a hearing on "Implementation of the No Child Left Behind Act." Testimony was heard from Gene Hickok, Under Secretary, Department of Education; William Windler, Assistant Commissioner, Department of Education, State of Colorado; and public witnesses.

TEMPORARY WAIVER—CERTAIN REQUIREMENTS UNDER CLEAN AIR ACT—AREAS IN NEW YORK WHERE ACTS OF TERRORISM DESTROYED PLANNING OFFICES AND RESOURCES

Committee on Energy and Air Quality: Subcommittee on Energy and Air Quality approved for full Committee action H.R. 3880, to provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in New York where the planning offices and resources have been destroyed by acts of terrorism.

COMMUNITY CHOICE IN REAL ESTATE ACT

Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit held a hearing on H.R. 3424, Community Choice in Real Estate Act. Testimony was heard from Representatives Calvert and Kanjorski; and public witnesses.

OVERSIGHT—CYBER-TERRORISM

Committee on Government Reform: Subcommittee on Government Efficiency, Financial Management and

Intergovernmental Relations held an oversight hearing on ''Cyber-terrorism: Is the Nation's Critical Infrastructure Adequately Protected?'' Testimony was heard from Robert F. Dacey, Director, Information Security, GAO; Ronald L. Dick, Director, National Infrastructure Protection Center, FBI, Department of Justice; John S. Tritak, Director, Critical Infrastructure Assurance Office, Department of Commerce; and public witnesses.

OVERSIGHT—COMMERCIAL ACTIVITIES PANEL—REVIEW FINDINGS

Committee on Government Reform: Subcommittee on Technology and Procurement Policy held a hearing entitled ''An Oversight Hearing to Review the Findings of the Commercial Activities Panel.'' Testimony was heard from David M. Walker, Comptroller, GAO; Angela Styles, Director, Office of Federal Procurement Policy, OMB; Joseph Sikes, Director, Competitive Sourcing and Privatization, Department of Defense; and public witnesses.

''MARSHALL PLAN'' FOR THE MIDDLE EAST

Committee on International Relations: Held a hearing on Economic Development and Integration as a Catalyst for Peace: A ''Marshall Plan'' for the Middle East. Testimony was heard from former Senator George J. Mitchell, State of Maine; Rima Khalaf Hunaidi, Assistant Secretary-General, United Nations, Assistant Administrator and Regional Director, Regional Bureau for Arab States, United Nations Development Programme; and public witnesses.

MISCELLANEOUS MEASURES

Committee on International Relations: Subcommittee on Europe approved for full Committee action, as amended, the following measures: H. Con. Res. 164, 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; H. Con. Res. 437, recognizing the Republic of Turkey for its cooperation in the campaign against global terrorism, for its commitment of forces and assistance to Operation Enduring Freedom and subsequent missions in Afghanistan, and for initiating important economic reforms to build a stable and prosperous economy in Turkey; and H. Con. Res. 327, commending the republic of Turkey and the State of Israel for the continued strengthening of their political, economic, cultural, and strategic partnership and for their actions in support of the war on terrorism.

WESTERN HEMISPHERE—COFFEE CRISIS

Committee on International Relations: Subcommittee on Western Hemisphere held a hearing on the Coffee Crisis in the Western Hemisphere. Testimony was heard from Adolfo Franco, Assistant Administrator, Bureau for Latin America and the Caribbean, AID, Department of State; Franklin Lee, Deputy Administrator, Commodity and Marketing Programs, USDA; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Ordered reported the following bills: H.R. 2099, amended, to amend the Omnibus Parks and Public Lands Management Act of 1996 to provide adequate funding authorization for the Vancouver National Historic Reserve; H.R. 2301, amended, to authorize the Secretary of the Interior to construct a bridge on Federal land west of and adjacent to Folsom Dam in California; H.R. 2534, amended, Lower Los Angeles River and San Gabriel River Watersheds Study Act of 2001; H.R. 2748, amended, National War Permanent Tribute Historical Database Act; H.R. 3407, amended, Indian Finance Act Reform Amendment; H.R. 3434, amended, McLoughlin House National Historic Site Act; H.R. 3449, to revise the boundaries of the George Washington Birthplace National Monument; H.R. 4622, amended, Gateway Communities Cooperation Act of 2002; H.R. 4682, Allegheny Portage Railroad National Historic Site Boundary Revision Act; H.R. 4708, amended, Fremont-Madison Conveyance Act; H.R. 4917, amended, Los Padres National Forest Land Exchange Act; H.R. 4938, to direct the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water supply for the Santee Sioux Tribe of Nebraska; H.R. 4953, amended, to direct the Secretary of the Interior to grant Deschutes and Crook Counties in the State of Oregon a right-of-way to West Butte Road; H.R. 5039, amended, Humboldt Project Conveyance Act; and S. 1105, Grand Teton National Park Land Exchange Act.

SATELLITE DATA MANAGEMENT AT NOAA

Committee on Science: Subcommittee on Environment, Technology and Standards held a hearing on Satellite Data Management at NOAA. Testimony was heard from Conrad C. Lautenbacher, Jr., Under Secretary, Oceans and Atmosphere, NOAA, Department of Commerce; Linda D. Koontz, Director, Information Issues, GAO; and a public witness.

MISCELLANEOUS MEASURES; PROSPECTUSES

Committee on Transportation and Infrastructure: Ordered reported the following measures: H. Con. Res. 442, recognizing the American Road and Transportation

Builders Associations for reaching its 100th Anniversary and for the many vital contributions of its members in the transportation construction industry to the American economy and quality of life through the multi-modal transportation infrastructure network its members have designed, built, and managed over the past century; H.R. 4727, amended, Dam Safety and Security Act of 2002; H.R. 5157, to amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit formula grants in fiscal year 2003; and H.R. 5169, Wastewater Treatment Works Security Act.

The Committee also approved several Army Corps of Engineers Survey resolutions and GSA Capitol Investment and Leasing Program resolutions.

VETERANS' LEGISLATION

Committee on Veterans' Affairs: Subcommittee on Benefits held a hearing on the following bills: H.R. 5111, Servicemember's Civil Relief Act; and H.R. 4017, Soldiers' and Sailors' Civil Relief Equity Act. Testimony was heard from public witnesses.

Hearings continue tomorrow.

GLOBAL HOT SPOTS

Permanent Select Committee on Intelligence: Met in executive session to discuss Global Hot Spots. Testimony was heard from departmental witnesses.

FUTURE IMAGERY ARCHITECTURE

Permanent Select Committee on Intelligence: Subcommittee on Technical and Tactical Intelligence met in executive session to hold a hearing on Future Imagery Architecture. Testimony was heard from departmental witnesses.

Joint Meetings

ECONOMIC STATISTICS

Joint Economic Committee: Committee concluded hearings to examine the measuring of economic change, focusing on international trade data, gross domestic product estimates, and electronic commerce, after receiving testimony from Donald L. Evans, Secretary of Commerce; and William D. Nordhaus, Yale University, New Haven, Connecticut, on behalf of the Bureau of Economic Analysis Advisory Committee.

CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT

Conferees agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 3763, to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST *of July 8, 2002, p. D712)*

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. Signed on July 23, 2002. (Public Law 107–200)

S. 2594, to authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins. Signed on July 23, 2002. (Public Law 107–201)

COMMITTEE MEETINGS FOR THURSDAY, JULY 25, 2002

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: business meeting to mark up proposed legislation making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003; proposed legislation making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2003; proposed legislation making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2003; and proposed legislation making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003, 2 p.m., S–128, Capitol.

Committee on Armed Services: to hold hearings to examine the national security implications of the Strategic Offensive Reductions Treaty, 9:30 a.m., SD–106.

Committee on Banking, Housing, and Urban Affairs: business meeting to consider the nominations of Paul S. Atkins, of Virginia, Harvey Jerome Goldschmid, of New York, Cynthia A. Glassman, of Virginia, and Roel C. Campos, of Texas, each to be a Member of the Securities and Exchange Commission, Time to be announced, Room to be announced.

Committee on Commerce, Science, and Transportation: to hold hearings to examine aviation security transition, focusing on the deployment of baggage screening equipment, cockpit security, and air cargo security, 9:30 a.m., SR–253.

Committee on Energy and Natural Resources: Subcommittee on Public Lands and Forests, to hold hearings to examine

S. 2672, to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands, 2:30 p.m., SD–366.

Committee on Environment and Public Works: business meeting to consider S. 1602, to help protect the public against the threat of chemical attack; S. 1746, to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities; S. 1850, to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup; proposed legislation authorizing funds for the John F. Kennedy Center Plaza; and the nominations of John S. Bresland, of New Jersey, to be a Member, and Carolyn W. Merritt, of Illinois, to be Chairperson and Member, each of the Chemical Safety and Hazard Investigation Board; and John Peter Suarez, of New Jersey, to be Assistant Administrator for Enforcement and Compliance of the Environmental Protection Agency, 11 a.m., SD–406.

Committee on Foreign Relations: business meeting to consider the Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the United Nations General Assembly on December 18, 1979, and signed on behalf of the United States of America on July 17, 1980 (Treaty Doc. 96–53); Agreement Establishing the South Pacific Regional Environment Programme, done at Apia on June 16, 1993 (Treaty Doc. 105–32); Treaty Between the Government of the United States of America and the Government of Niue on the Delimitation of a Maritime Boundary, signed in Wellington, May 13, 1997 (Treaty Doc. 105–53); S. Res. 296, recognizing the accomplishment of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist and recognizing the 10th Anniversary of the return of his remains to Poland; S. Res. 300, encouraging the peace process in Sri Lanka; and pending nominations, 10:30 a.m., SD–419.

Committee on Governmental Affairs: business meeting to continue to reconsider the Committee's action of May 22, 2002, with respect to ordering favorably reported, with amendments S. 2452, to establish the Department of National Homeland Security and the National Office for Combating Terrorism, 9:30 a.m., SD–342.

Committee on Health, Education, Labor, and Pensions: to hold hearings to examine violence against women in the workplace, focusing on the extent of the problem and government and business responses, 10 a.m., SD–430.

Committee on Indian Affairs: to hold hearings to examine the July 2, 2002 Report of the Department of the Interior to Congress on historical accounting of Individual Indian Money Accounts, 10 a.m., SR–485.

Select Committee on Intelligence: to hold joint closed hearings 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: to hold oversight hearings to examine the Department of Justice, 10 a.m., SD–226.

House

Committee on Energy and Commerce, Subcommittee on Health, hearing entitled "Examining Prescription Drug Reimportation: a Review of a Proposal to Allow Third Parties to Reimport Prescription Drugs," 1 p.m., 2123 Rayburn.

Subcommittee on Oversight and Investigations, hearing entitled "The U.S. National Climate Change Assessment: Do the Climate Models Project a Useful Picture of Regional Climate?" 9:30 a.m., 2322 Rayburn.

Committee on Financial Services, Subcommittee on International Monetary Policy and Trade, hearing on the expected authorization requests on the U.S. participation in the World Bank-International Development Association and the African Development Fund, 1:30 p.m., 2128 Rayburn.

Committee on Government Reform, hearing on "Diet, Physical Activity, and Dietary Supplements—the Scientific Basis for Improving Health, Saving Money, and Preserving Personal Choice," 10 a.m., 2154 Rayburn.

Committee on International Relations, hearing on Loose Nukes, Biological Terrorism, and Chemical Warfare: Using Russian Debt to Enhance Security, 10:45 a.m., 2172 Rayburn.

Subcommittee on International Operations and Human Rights, to mark up the following measures: H. Con. Res. 349, calling for an end to the sexual exploitation of refugees; and H. Con. Res. 351, expressing the sense of Congress that the United States should condemn the practice of execution by stoning as a gross violation of human rights, 1 p.m., 2255 Rayburn.

Committee on Resources, Subcommittee on Energy and Mineral Resources, hearing on H.R. 5156, to amend the Outer Continental Shelf Lands Act to protect the economic and land use interests of the Federal Government in the management of outer continental shelf lands for energy-related and certain other purposes, 2 p.m., 1334 Longworth.

Subcommittee on Fisheries Conservation, Wildlife and Oceans, to mark up H.R. 4781, Marine Mammal Protection Act Amendments of 2002, 2 p.m., 1324 Longworth.

Subcommittee on Forests, and Forests Health, the Subcommittee on National Parks, Recreation and Public Lands, and the Subcommittee on Fisheries Conservation and Oceans, joint hearing on the following bills: H.R. 2386, Outfitters Policy Act of 2002; H.R. 1811, PILT and Refuge Revenue Sharing Permanent Funding Act; and H.R. 5081, Property Tax Endowment Act of 2002; 10 a.m., 1334 Longworth.

Subcommittee on Forests and Forest Health, hearing on the following: a measure to direct the Secretary of Agriculture to convey real property in the Dixie National Forest in the State of Utah; and H.R. 5032, to authorize the Secretary of Agriculture to convey National Forest System lands in the Mendocino National Forest, California, to authorize the use of the proceeds from such conveyances for National Forest purposes, 10 a.m., 1334 Longworth.

Subcommittee on Water and Power, hearing and markup of the following bills: H.R. 4910, to authorize the Secretary of the Interior to revise a repayment contract

with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas; and H.R. 5123, to address certain matter related to Colorado River water management and the Salton Sea by providing funding for habitat enhancement projects at the Salton Sea, 10 a.m., 1324 Longworth.

Committee on Science, Subcommittee on Energy, hearing on Future Direction of the Department of Energy's Office of Science, 10 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Highways and Transit, oversight hearing on Transportation Solutions in a Community Context: the Need for Better Transportation Systems for Everyone, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Benefits, to continue hearings on the following bills: H.R. 5111, Servicemember's Civil Relief Act; and H.R. 4017, Soldiers' and Sailors' Civil Relief Equity Act, 10 a.m., 334 Cannon.

Committee on Ways and Means, to mark up the following bills: the Back to School Tax Relief Act of 2002; and H.R. 4889, Patient Safety Improvement Act of 2002, 2 p.m., 1100 Longworth.

Subcommittee on Human Resources, hearing on fraud and abuse in the Supplemental Security Income (SSI) program, 10:30 a.m., B–318 Rayburn.

Joint Meetings

Joint Meetings: Senate Select Committee on Intelligence, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001, 10 a.m., S–407, Capitol.

Next Meeting of the SENATE

9:30 a.m., Thursday, July 25

Senate Chamber

Program for Thursday: After the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate will continue consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act, with 1 hour of debate in relation to the motion to waive section 205 of H. Con. Res. 290, 2001 Congressional Budget Resolution, with respect to the emergency designation in Section C of Rockefeller Amendment No. 4316 (to Amendment No. 4299); to be followed by a vote on the motion to waive.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, July 25

House Chamber

Program for Thursday: Consideration of H.R. 5005, Homeland Security Bill (subject to a rule) and

Consideration of the Conference report on H.R. 3763, Corporate and Auditing Accountability, Responsibility, and Transparency Act (unanimous consent).

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(House proceedings for today will be continued in the next issue of the Record.)

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